TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~1116~~ 456

THE ST. LOUIS SMELTING AND REFINING COMPANY, PLAINTIFF IN ERROR,

vs.

THOMAS KEMP AND WILLIAM NUTTALL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLORADO.

FILED 3RD FEBRUARY, 1880.

by reading from a designated *page of a printed volume*, it is submitted that there is no substantial ground for this assignment. (Wright's Case, 18 Ga., 383; Houser's Case, 58 Ga., 80; Prospero's Case, 14 Cal.)

S. F. PHILLIPS,
Solicitor-General.

Post until Monday 11-63 Field J.
Use on Motion to dismiss the writ of Error
Submitted Nov. 29. 1880

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~1118.~~ ~~776~~ 458

Rev

THE ST. LOUIS SMELTING AND REFINING COMPANY, PLAINTIFF IN ERROR,

vs.

THOMAS KEMP AND WILLIAM NUTTALL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLORADO.

FILED 5th FEBRUARY, 1880.

Wdmcc

SUPREME COURT OF THE UNITED STATES.

No. 1118.

THE ST. LOUIS SMELTING AND REFINING COMPANY, PLAINTIFF IN ERROR,

VS.

THOMAS KEMP AND WILLIAM NUTTALL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLORADO.

FILED 5TH FEBRUARY, 1880.

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4 *General Placita.*

Pleas in the Circuit Court of the United States for the District of Colorado.

THE SAINT LOUIS SMELTING AND REFINING COMPANY
vs.
THOMAS KEMP and WILLIAM NUTTALL.

Be it remembered that heretofore and on, to wit, the 20th day of September, A. D. 1879, came D. E. Parks, Esq., an attorney of record of said court, and filed in said court a certain transcript of record and proceedings had in the District Court for the county of Lake and State of Colorado, in a certain cause in the said District Court lately pending, wherein The Saint Louis Smelting and Refining Company was plaintiff and Thomas Kemp and William Nuttall were defendants.

And the said transcript is in words and figures as follows, to wit:

5 *Transcript from District Court, Lake County.*

STATE OF COLORADO,
Lake County, } *ss:*

Pleas in the District Court of the Fourth Judicial District of the State of Colorado, sitting within and for the county of Lake, before the Honorable Thomas M. Bowen, judge of said judicial district, at a term thereof begun and holden at the court-house in the city of Leadville, in said county, on the first Monday (it being the fifth day) of May, A. D. one thousand eight hundred and seventy-nine.

Present: Honorable Thomas M. Bowen, judge; Columbus W. Burris, Esq., district attorney of said district; Ledyard R. Tucker, sheriff of said county; Charles W. Taylor, clerk of said court.

6 Be it remembered that heretofore and on, to wit, the sixth day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Demurrer set down.

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

At this day it is ordered by the court that the demurrer to the complaint be set down for argument on the docket of this court as number fifty-six (56.)

Afterwards and on, to wit, the 13th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term,

4 *General Placita.*

Pleas in the Circuit Court of the United States for the District of Colorado.

THE SAINT LOUIS SMELTING AND REFINING COMPANY
vs.
THOMAS KEMP and WILLIAM NUTTALL.

Be it remembered that heretofore and on, to wit, the 20th day of September, A. D. 1879, came D. E. Parks, Esq., an attorney of record of said court, and filed in said court a certain transcript of record and proceedings had in the District Court for the county of Lake and State of Colorado, in a certain cause in the said District Court lately pending, wherein The Saint Louis Smelting and Refining Company was plaintiff and Thomas Kemp and William Nuttall were defendants.

And the said transcript is in words and figures as follows, to wit:

5 *Transcript from District Court, Lake County.*

STATE OF COLORADO,
Lake County, } *ss:*

Pleas in the District Court of the Fourth Judicial District of the State of Colorado, sitting within and for the county of Lake, before the Honorable Thomas M. Bowen, judge of said judicial district, at a term thereof begun and holden at the court-house in the city of Leadville, in said county, on the first Monday (it being the fifth day) of May, A. D. one thousand eight hundred and seventy-nine.

Present: Honorable Thomas M. Bowen, judge; Columbus W. Burris, Esq., district attorney of said district; Ledyard R. Tucker, sheriff of said county; Charles W. Taylor, clerk of said court.

6 Be it remembered that heretofore and on, to wit, the sixth day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Demurrer set down.

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

At this day it is ordered by the court that the demurrer to the complaint be set down for argument on the docket of this court as number fifty-six (56.)

Afterwards and on, to wit, the 13th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term,

A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

7 *Order: Petition for Receiver filed, and Rule to Plead.*

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

At this day comes said plaintiff, by C. I. Thomson, Esq., its attorney, and by leave of court file its petition for the appointment of a receiver herein. And thereupon, on motion of said plaintiff, it is ordered by the court that said defendant plead to said petition by the incoming of court on Friday next, the 16th inst.

Afterwards and on, to wit, the 17th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Demurrer to Petition Filed.

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

8 At this day come said defendants, by D. E. Parks, Esq., their attorney, and by leave of court file their demurrer to the petition for a receiver herein.

Afterwards and on, to wit, the 20th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Petition and Bond for Removal Filed.

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

At this day come said defendants, by D. E. Parks, Esq., their attorney, and by leave of court file their petition and bond for the removal of this cause to the Circuit Court of the United States for the District of Colorado.

Afterwards and on this same day, to wit, the 20th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

"E."

16 *Petition for Injunction and Receiver.*

STATE OF COLORADO, }
County of Lake, } *ss:*

In the District Court of the 4th Judicial District of Colorado, sitting in and for said county.

THE ST. LOUIS SMELTING AND REFINING COMPANY, Plaintiff, }
against }
THOMAS KEMP and WILLIAM NUTTALL, Defendants. }

The above-named plaintiff, The St. Louis Smelting and Refining Company, comes and shows to the court that on the 22d day of April, A. D. 1879, it filed in the office of the clerk in this cause, against the above-named defendants, for the recovery of the possession of the following-described real estate, situate in the county of Lake and State of Colorado, to wit: Lot number five (5) in block number one (1), as shown upon a map and plat of town lots made by the plaintiff, entitled The St. Louis Smelting and Refining Company's Addition to the City of Leadville, which map and plat is duly filed in the office of the clerk and recorder of said county, and for damages for the detention thereof, and that defendants were served with process in said cause on the 23rd day of April, A. D. 1879. And the plaintiff states that at the time of said filing of said complaint

17 it was, and still is, the owner of said real estate in fee, and *and* entitled to the possession thereof, and that the defendants then did, and still do, wrongfully withhold the same from it, as is fully stated in said complaint.

The plaintiff further states that said premises are occupied by large and valuable improvements which belong thereto; that the defendant Kemp is in possession of and claims the same as landlord of the defendant Nuttall; that said Nuttall occupies the same as tenant of said Kemp, and that said Kemp, as such landlord, is receiving and deriving from said premises and from said Nuttall, as such tenant occupying the same as aforesaid, large sums of money as rent for said premises, to which rent the plaintiff is entitled, and threatens and will continue so to do unless restrained therefrom by the order of this court; that said Kemp is insolvent and has no property subject to execution out of which any judgment which the plaintiff might obtain for the rents and profits of said premises, or damages for the detention thereof, could be made; and that unless an order be granted by this court restraining said Kemp from collecting said rents and appointing a receiver to collect and hold the same subject to the order of this court, the rents and profits of said premises are in great danger of being entirely lost to the plaintiff. And the plaintiff by reason thereof will sustain great and irreparable injury and damage.

A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

7 *Order: Petition for Receiver filed, and Rule to Plead.*

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

At this day comes said plaintiff, by C. I. Thomson, Esq., its attorney, and by leave of court file its petition for the appointment of a receiver herein. And thereupon, on motion of said plaintiff, it is ordered by the court that said defendant plead to said petition by the incoming of court on Friday next, the 16th inst.

Afterwards and on, to wit, the 17th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Demurrer to Petition Filed.

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

8 At this day come said defendants, by D. E. Parks, Esq., their attorney, and by leave of court file their demurrer to the petition for a receiver herein.

Afterwards and on, to wit, the 20th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

Order: Petition and Bond for Removal Filed.

ST. LOUIS SMELTING AND REFINING COMPANY
100 *vs.* } Ejectment.
THOMAS KEMP *et al.*

At this day come said defendants, by D. E. Parks, Esq., their attorney, and by leave of court file their petition and bond for the removal of this cause to the Circuit Court of the United States for the District of Colorado.

Afterwards and on this same day, to wit, the 20th day of May, A. D. 1879, the same being one of the regular juridical days of the said May Term, A. D. 1879, of said court, the following proceedings *inter alia* were had and entered of record in said court, to wit:

"E."

16 *Petition for Injunction and Receiver.*

STATE OF COLORADO, }
County of Lake, } *ss:*

In the District Court of the 4th Judicial District of Colorado, sitting in and for said county.

THE ST. LOUIS SMELTING AND REFINING COMPANY, Plaintiff, }
against }
THOMAS KEMP and WILLIAM NUTTALL, Defendants. }

The above-named plaintiff, The St. Louis Smelting and Refining Company, comes and shows to the court that on the 22d day of April, A. D. 1879, it filed in the office of the clerk in this cause, against the above-named defendants, for the recovery of the possession of the following-described real estate, situate in the county of Lake and State of Colorado, to wit: Lot number five (5) in block number one (1), as shown upon a map and plat of town lots made by the plaintiff, entitled The St. Louis Smelting and Refining Company's Addition to the City of Leadville, which map and plat is duly filed in the office of the clerk and recorder of said county, and for damages for the detention thereof, and that defendants were served with process in said cause on the 23rd day of April, A. D. 1879. And the plaintiff states that at the time of said filing of said complaint

17 it was, and still is, the owner of said real estate in fee, and *and* entitled to the possession thereof, and that the defendants then did, and still do, wrongfully withhold the same from it, as is fully stated in said complaint.

The plaintiff further states that said premises are occupied by large and valuable improvements which belong thereto; that the defendant Kemp is in possession of and claims the same as landlord of the defendant Nuttall; that said Nuttall occupies the same as tenant of said Kemp, and that said Kemp, as such landlord, is receiving and deriving from said premises and from said Nuttall, as such tenant occupying the same as aforesaid, large sums of money as rent for said premises, to which rent the plaintiff is entitled, and threatens and will continue so to do unless restrained therefrom by the order of this court; that said Kemp is insolvent and has no property subject to execution out of which any judgment which the plaintiff might obtain for the rents and profits of said premises, or damages for the detention thereof, could be made; and that unless an order be granted by this court restraining said Kemp from collecting said rents and appointing a receiver to collect and hold the same subject to the order of this court, the rents and profits of said premises are in great danger of being entirely lost to the plaintiff. And the plaintiff by reason thereof will sustain great and irreparable injury and damage.

The plaintiff therefore prays the court—

1st. To grant a writ of injunction issuing out and under
18 the seal thereof, addressed to said defendant Kemp, commanding him, his agents, servants and employees to refrain and desist from receiving or collecting of any rents from said Nuttall, or any person or persons for or on account of any occupation of said premises, as tenants or tenants of said Kemp or otherwise, until the further order in the premises of this court.

2nd. That a receiver be appointed by the court to collect and receive all the rents and profits of said premises and keep and dispose of the same as the court shall order, and that said Nuttall and all other occupants of said premises be ordered to pay said rents to said receiver.

3rd. That in the final hearing of this cause said injunction shall be made perpetual, and for such other and further relief as the court shall seem meet and proper.

THOMSON, HEREFORD AND SAYER,
Att'ys for Plaintiff.

STATE OF COLORADO, }
County of Lake, } *ss:*

George A. Hynes, being duly sworn, on oath doth depose and say that he is the agent and superintendent of the St. Louis Smelting and Refining Company, the plaintiff in this cause; that he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on his information and belief, and as to those matters that he believes it to be true.

GEORGE A. HYNES.

19 Subscribed and sworn to before me this 12th day of April, A. D. 1879.

J. H. CLEWES,
Notary Public.

(Endorsed:) 100; St. Louis Smelting and Refining Company *vs.* Thomas Kemp and William Nuttall; Prayer for Injunction and Appointment of Receiver; filed May 13th, 1879; Chas. W. Taylor, *clerk;* Thompson, Hereford & Sayer, plff. att'ys.

"F."

Demurrer to Petition for Injunction, &c.

STATE OF COLORADO, }
County of Lake. }

In the District Court 4th Judicial District, in and for Lake county.

ST. LOUIS SMELTING AND REFINING COMPANY, Plaintiff, }
vs.
THOMAS KEMP and WILLIAM NUTTALL, Defendants. }

Now come the said defendants and demur to plaintiff application

for an injunction and receiver herein, for the reasons following, to wit:

20 1st. That the same does not state facts sufficient to entitle plaintiff to the relief sought, in this, to wit:

1st. That the same alleges a mere naked legal right, and does not show any equities in the plaintiff.

2d. That there are no allegations of waste or destruction of the property, either threatened, permitted, or allowed by defendants.

3d. That plaintiff shows that it has an adequate remedy at law, and not entitled to equitable relief.

YATES & PARKS,
Att'y for Defendants.

(Endorsed:) 100; St. Louis S. & R. Co. *vs.* Thomas Kent *et als.*; Demurrer to Application for Injunction, &c.; filed May 17th, 1879; Chas. W. Tayler, *clerk;* Yates & Parks, att'ys for defts.

"G."

Petition for Removal to U. S. Court.

STATE OF COLORADO, } *ss:*
County of Lake, }

In the District Court of the Fourth Judicial District, held within and for the said county of Lake.

21	THE SAINT LOUIS SMELTING AND REFINING COMPANY, Plaintiff, *vs.* THOMAS KEMP and WILLIAM NUTTALL, Defendants.	Petition for removal of cause to the United States Circuit Court, District of Colorado.

To the honorable the said District Court:

The petition of Thomas Kemp and William Nuttall, the above-named defendants, respectfully shows to this honorable court that the matter and amount in dispute in the above-entitled suits exceeds, exclusive of costs, the sum or value of five hundred dollars ($500.00).

That the controversy in said suit is between citizens of different States, and that the said petitioners were at the time of the commencement of this suit and still are citizens of the State of Colorado, and that the said plaintiff, the said St. Louis Smelting and Refining Company, was at the time of the commencement of this suit and still is a citizen of the State of Missouri, being a foreign corporation, created and organized under and by virtue of the laws of the said State of Missouri, and having its principal office and place of business at the city and county of Saint Louis, in the said State of Missouri.

And your petitioners offer herewith a bond with good and suffi-

cient security for their entering in said Circuit Court of the United States on the first day of its next session a copy of the record in this suit, and for paying all costs that may be awarded by said
22 Circuit Court if said court shall hold that this suit was wrongfully or improperly removed thereto.

Your petitioners therefore pray this honorable court to proceed no further herein, except to make the order of removal required by law, and to accept the said surety and bond, and to cause the record herein to be removed into the said Circuit Court of the United States in and for the District of Colorado, and your petitioners will ever pray, &c.

YATES & PARKS,
Att'y for Petitioners.

STATE OF COLORADO, }
County of Lake, } *ss:*

Daniel E. Parks, being duly sworn, says he is one of the attorneys for the petitioners in the above-entitled cause and petition; that he has read the said petition and knows the contents thereof, and that the statements and allegations therein contained are true, as he verily believes.

DANIEL E. PARKS.

Subscribed by the said Daniel E. Parks in my presence, and by him sworn to before me this 20th day of May, A. D. 1879.

CHAS. W. TAYLER,
Clerk Dist. Court.

(Endorsed:) G. D. 100; The Saint Louis Smelting and Refining Company, pl'ffs, *vs.* Thomas Kemp and William Nuttall, def'ts; Petition to Remove Cause; filed May 20th, 1879; Chas. W. Tayler, *clerk.*

"H."

23 *Bond.*

Know all men by these presents: That we, Thomas Kemps and William Nuttall, as principals, and Patrick J. McCleary and Joseph Samuels, as sureties, are held and firmly bound unto The St. Louis Smelting and Refining Company in the penal sum of five hundred dollars, lawful money of the United States of America, for the payment whereof well and truly to be made unto the said St. Louis Smelting and Refining Company, its heirs and assigns and successors, we bind ourselves, our each of our heirs, representatives, and assignees, jointly and severally, firmly by these present .

Yet upon these conditions the said Thomas Kemp and William Nuttall having petitioned the District Court of Lake county, State of Colorado, for the removal of a certain cause therein pending, wherein The St. Louis Smelting and Refining Company is plaintiff and

it did so for the sole and only purpose of erecting smelting and reducing works thereon, and that in pursuance of such intention it built a large and valuable smelting and reducing works, known as the Harrison Reduction Works, upon the property mentioned and described in the complaint herein, and has ever since carried on the business of reducing and smelting silver ores in the said works upon said property. That at the time the plaintiff contracted to purchase the said property and proceeded to and did erect the said smelting and reducing works thereon, said property was necessary and useful for
32 the purpose of carrying on the said smelting business, and there was not at said time any person or persons living upon or near the said real estate.

III. Plaintiff, for further reply, denies that it purchased or acquired the title to the said real estate for the purpose of trading, selling, or speculating with the same; but alleges that it purchased it, as aforesaid, for the sole and only purpose of carrying on its said reducing and smelting business.

(Signed) THOMSON & SAYER,
SYMES & DECKER,
Plff's. Attys.

(Endorsed:) No. 332, U. S. C. C. St. L. S. & R. Co. *vs.* Thomas Kemp *et al;* Replication; filed Nov. 1, 1879; (Sgd) Edward F. Bishop, *clerk;* G. G. Symes, for plff.

And afterwards and on, to wit, the 26th day of November, A. D. 1879, the same being one of the regular juridical days of the October Term, A. D. 1879, of said court, the following further proceedings were had and entered of record in said court and in said cause, to wit:

33 *Order: Jury Impaneled and Verdict.*

THE ST. LOUIS SMELTING AND REFINING COMPANY		For possession of
332 *vs.*		specific real
THOMAS KEMP *et al.*		property, &c.

At this day comes the said plaintiff by G. G. Symes, Esq., its attorney, and the said defendants by T. M. Patterson, Esq., their attorney, also come.

And thereupon comes a jury, to wit:

[1]Joseph Mason,	[5]Thos. P. Bell,	[9]Samuel Miller,
[2]Charles M. McKelvy,	[6]Henry C. Peterson,	[10]J. M. Carnahan,
[3]Henry Deitz,	[7]W. J. Atwood,	[11]H. H. Elwood,
[4]Geo. A. Pugh,	[8]Robert Culver,	[12]William M. Post,

good and lawful men. And they are duly selected and tried, impaneled and sworn to well and truly try the issues herein joined and true verdict give according to the evidence.

And the said jurors having heard the evidence produced herein by

the plaintiff and the instructions of the court, upon their oaths do say they find the issues herein joined for the said defendants.

And afterwards and on, to wit, the 4th day of December, A. D. 1879, the same being one of the regular juridical days of the October Term, A. D. 1879, of said court, the following additional proceedings were had and entered of record in said court and in said cause, to wit:

Order: Judgment for Defendants.

34 THE ST. LOUIS SMELTING AND REFINING COMPANY *vs.* THOMAS KEMP and WILLIAM NUTTALL. } For possession of specific real property and for damages.
332 } From District Court, Lake county.

At this day come the said defendants by V. D. Markham, Esq., their attorney, and move the court for judgment on the verdict of the jury herein.

Wherefore it is considered by the court that the said defendants go hence hereof without day, and have and recover of and from the said plaintiff their costs by them in this behalf laid out and expended, to be taxed, and have execution therefor.

And afterwards and on, to wit, the 5th day of January, A. D. 1880, came again the said plaintiff by its attorney, as aforesaid, and filed in said court and in said cause its bill of the exceptions reserved by it upon the trial of the issues herein joined.

And the said bill of exceptions is in words and figures as follows, to wit:

Bill of Exceptions.

35 UNITED STATES OF AMERICA, *District of Colorado.*

In the Circuit Court of the United States for the District of Colorado, in the 8th Judicial Circuit, at the General Term thereof, begun and holden in the city of Denver, in said district, on the day of October, A. D. 1879.

Present: Hon. Moses Hallett, District Judge, presiding.

THE ST. LOUIS SMELTING AND REFINING COMPANY, Pltff, *vs.* THOMAS KEMP *et al.*, Defts.

Be it remembered, that on the trial of this cause, during the General Term of this court, to wit, on the 26th day of November, A. D. 1879, a jury having been duly empanelled and sworn, the plaintiff, to maintain the issues on its part, gave in evidence as follows; that is to say:

Plaintiff, by its counsel, offered in evidence a patent from the United States to Thomas Starr, dated March 29th, A. D. 1879, which was admitted by counsel for defendants to include the ground in dispute in this case, (marked Plaintiffs' Exhibit "A,") which is in words and figures following, to wit:

36 GENERAL LAND OFFICE, No. 3117. } Mineral Certificate No. 182.

The United States of America to all to whom these presents shall come, greeting:

Whereas, in pursuance of the provisions of the Revised Statutes of the United States, chapter six, title thirty-two, there have been deposited in the General Land Office of the United States the plat and field-notes of survey of the placer mining claim of Thomas Starr, accompanied by the certificate of the Register of the Land Office at Fairplay, in the State of Colorado, whereby it appears that in pursuance of the said Revised Statutes of the United States the said Thomas Starr did, on the 6th day of March, A. D. 1879, enter and pay for said claim or premises, being mineral entry number one hundred and eighty-two (182) in the series of said office designated by the Surveyor General as lot number two hundred and fifty-five (255), embracing a portion of the unsurveyed public domain in the California Mining District, in the county of Lake and State of Colorado, in the district of lands subject to sale at Fairplay, containing one hundred and sixty-four (164) acres and sixty-one hundredths ($\frac{61}{100}$) of an acre of land, more of less, and according to the returns on file in the General Land Office bounded, described, and platted as follows, with magnetic variation at fifteen (15) degrees east, to wit:

37 Beginning at corner No. 1, a granite rock 14 x 10 x 5 inches in size marked "I–255," from which U. S. locating monument No. 1 bears south eighty-nine (89) degrees forty-five (45) minutes east at the distance of four hundred and eighteen (418) feet; thence from said corner No. 1 south seventeen (17) degrees fifty (50) minutes east three hundred and fifty-seven (357) feet to road, ten hundred and forty (1040) feet to road, eleven hundred and seventy (1170) feet to bank of placer works, twelve hundred and eighty-five (1285) feet to California Gulch Creek, fourteen hundred (1400) feet to bank of placer works, fourteen hundred and thirty-seven (1437) feet to corner No. 2, a granite rock 16 x 12 x 3½ inches in size marked "II–255"; thence north sixty-three (63) degrees thirty (30) minutes east five hundred and fifteen (515) feet to corner No. 3, a granite rock 16 x 8 x 8 inches in size marked "III–255," the same being corner No. 3 of survey No. 158, patented to the Oro Ditch and Fluming Company with their placer claim; thence north sixty-eight (68) degrees east two hundred and eighty-nine and five-tenths (289 $\frac{5}{10}$) feet to corner No. 4, a granite rock 19 x 10 x 4 inches in size marked "IV–255," the same being corner No. 4 of said survey No. 158; thence

north eighty-four (84) degrees twenty-eight (28) minutes east one hundred and seventy-nine (179) feet to corner No. 5, a granite rock 18 x 10 x 6 inches in size marked "V–255"; thence south eighty-nine (89) degrees east two hundred and fifteen (215) feet to corner No. 6, a granite rock 18 x 10 x 5 inches in size marked "VI–
38 255"; thence south eighty-two (82) degrees nineteen (19) minutes east two hundred and seventy-seven and five-tenths ($277\frac{5}{10}$) feet to corner No. 7, a granite rock 18 x 14 x $3\frac{1}{2}$ inches in size marked "VII–255"; thence south seventy-seven (77) degrees forty-two (42) minutes east one hundred and sixty-nine and five-tenths ($169\frac{5}{10}$) feet to corner No. 8, a granite rock 18 x 10 x 6 inches in size marked "VIII–255"; thence south sixty-three (63) degrees thirty (30) minutes east three hundred and thirty-two (332) feet to corner No. 9, a granite rock 16 x 8 x 6 inches in size marked "IX–255"; thence south sixty-two (62) degrees fifty (50) minutes east one hundred and ninety-seven (197) feet to corner No. 10, a granite rock 16 x 14 x 6 inches in size marked "X–255"; thence north thirty-eight (38) degrees twenty (20) minutes east three (3) feet to bank of placer works, one hundred and three (103) feet to said creek, four hundred and fifty (450) feet to bank of placer works, five hundred and forty-four (544) feet to road, six hundred and twenty (620) feet to corner No. 11, a granite rock 18 x 9 x 6 inches in size marked "XI–255"; thence south sixty-two (62) degrees thirty (30) minutes east seventeen (17) feet to corner No. 12, a granite rock 16 x 9 x 8 inches in size marked "XII–255"; thence south forty-two (42) degrees fifty-five (55) minutes east three hundred and eighteen (318) feet to Oro Ditch, three hundred and forty-seven (347) feet cross ditch, seven hundred and seventy-four (774) feet to ditch, nine hun-
39 dred and twenty-five (925) feet to bank of ditch, nine hundred and fifty (950) feet to corner No. 13, a porphyry rock 20 x 14 x 6 inches in size on south side of ditch marked "XIII–255"; thence south twenty-eight (28) degrees thirty (30) minutes east one hundred and fifty (150) feet to corner No. 14, a granite rock 15 x 7 x 5 inches in size marked "XIV–255"; thence north forty-nine (49) degrees thirty (30) minutes east six (6) feet cross ditch, ninety-six (96) feet to road five hundred and ninety-eight (598) feet to corner No. 15, a granite rock 15 x 10 x 8 inches in size, marked "XV–255"; thence north forty-nine (49) degrees five (5) minutes west nine hundred and twenty (920) feet to ditch, ten hundred and eighty-eight (1088) feet to corner No. 16, a sandstone 24 x 14 x 6 inches in size, marked "XVI–255"; thence north twenty-six (26) degrees twenty-four (24) minutes east sixty-two (62) feet to ditch four hundred and eighty-six (486) feet to corner No. 17, a granite rock 14 x 10 x $3\frac{1}{2}$ inches in size, marked "XVII–255," from which Mt. Elbert bears south forty-five (45) degrees twenty (20) minutes west; thence from said corner No. 17 north sixty-four (64) degrees west two hundred (200) feet to corner No. 18, a porphyry rock 21 x 12 x 3 inches in size, marked "XVIII–255"; thence north twenty-six (26) degrees east nine hundred and fifteen (915) feet to corner No. 19, a granite rock 20 x

8x4 inches in size, marked "XIX–255," from which a blazed pine twelve (12) inches in diameter ..... "XIX–255" bears south fourteen (14) degrees twenty-eight (28) minutes east at the distance of thirty-two (32) feet and a blazed pine sixteen (16) inches in diameter marked "XIX–255" bears north fifty-seven (57) degrees twenty-five (25) minutes east at the distance of seventeen and five-tenths (17_{10}^{5}) feet; thence from said corner No. 19 north seventy-five (75) degrees eighteen (18) minutes west nine hundred and eleven (911) feet to ditch ten hundred and twenty-seven (1027) feet to corner No. 20, a granite stone 20x8x4 inches in size, marked "XX–255"; thence north twenty-eight (28) degrees twenty (20) minutes west three hundred and seventy and four-tenths (370_{10}^{4}) feet to corner No. 21, a granite rock 14x10x8 inches in size, marked "XXI–255"; thence north three (3) minutes east five hundred and eighty-five (585) feet to Stray Horse Creek six hundred and seven (607) feet to corner No. 22, a granite rock 14x9x6 inches in size, marked "XXII–255"; thence north fourteen (14) degrees seventeen (17) minutes west one hundred and thirty-six and ninety-four hundredths (136_{100}^{94}) feet to corner No. 23, a granite rock 14x9x7 inches in size, marked "XXIII–255"; thence north sixty-two (62) degrees east one hundred and eighty (180) feet to road three hundred and thirty-three and five-tenths (333_{10}^{5}) feet to corner No. 24, a granite rock 18x8x4 inches in size, marked "XXIV–255"; thence north sixty-eight (68) degrees thirty (30) minutes east twenty-five (25) feet to said Stray Horse Creek five hundred (500) feet to corner No. 25, a granite rock 18x12x10 inches in size, marked "25–255"; thence north seventy-five (75) degrees thirty-five (35) minutes east five hundred (500) feet to corner No. 26, a granite
41 stone 18x9x7 inches in size, marked "26–255," from which a pine eighteen (18) inches in diameter, marked "26–255," bears south twenty-five (25) degrees east at the distance of nineteen (19) feet, and a pine ten (10) inches in diameter, marked "26–255," bears south fifty-nine (59) degrees forty-five (45) minutes west at the distance of fifteen (15) feet; thence from said corner No. 26 south sixty-nine (69) degrees fifty-one (51) minutes east five hundred (500) feet to corner No. 27, a granite rock 18x9x4 inches in size, marked "27–255"; thence south seventy (70) degrees east five hundred (500) feet to corner No. 28, a granite rock 16x8x6 inches in size, marked "28–255"; thence north thirty-nine (39) degrees thirty (30) minutes west five hundred (500) feet to corner No. 29, a granite rock 15x7x6 inches in size, marked "29–255," from which a pine twelve (12) inches in diameter, marked "29–255," bears north eighty-two (82) degrees east at the distance of sixty-five (65) feet, and a pine sixteen (16) inches in diameter, marked "29–255," bears north forty-six (46) degrees fifty (50) minutes east at the distance of sixty-one (61) feet; thence from said corner No. 29 north seventy (70) degrees west five hundred (500) feet to corner No. 30, a granite rock "21x11x5 inches in size, marked "30–255"; thence north sixty-nine (69) degrees fifty-one (51) minutes west five hundred (500)

feet to corner No. 31, a granite rock 18x12x3½ inches in size, marked "31–255"; thence south seventy-five (75) degrees thirty-five (35) minutes west five hundred (500) feet to corner No. 32, a granite stone 18x10x3 inches in size in mound of stones
42 marked "32–255"; thence south sixty-eight (68) degrees thirty minutes west five hundred (500) feet to corner No. 33, a granite rock 21x7x3 inches in size, marked "33–255"; thence south sixty-two (62) degrees west one hundred and fourteen (114) feet to corner No. 34, a granite rock 18x10x8 inches in size, marked "34–255"; thence north fourteen (14) degrees seventeen (17) minutes west eighty-nine and thirty-three hundredths (89_{100}^{33}) feet to corner No. 35, a granite rock 21x8x7 inches in size in mound of stones marked "35–255," from which a mound of stones on Mt. Elbert bears south forty-two (42) degrees fifty-eight (58) minutes west; thence from said corner No. 35 north thirty-one (31) degrees fifty-five (55) minutes west three hundred and twenty-eight and five-tenths (328_{10}^{5}) feet to corner No. 36, a granite rock 18x6x6 inches in size, marked "36–255"; thence north fourteen (14) degrees fourteen (14) minutes west two hundred and forty and eight-tenths (240_{10}^{8}) feet to corner No. 37, a granite rock 16x8x6 inches in size, marked "37–255"; thence north two (2) degrees east four hundred and twenty-four (424) feet to corner No. 38, a granite rock 14x10x3 inches in size, marked "38–255"; thence north two (2) degrees thirty-five (35) minutes east four hundred and forty-two (442) feet to corner No. 39, a granite rock 14x9x4 inches in size, marked "39–255"; thence north ten (10) degrees fifty (50) minutes east five hundred and sixty and seven-tenths (560_{10}^{7}) feet to corner No. 40, a granite rock 14x8x5 inches in size, marked
"40–255"; thence north ten (10) degrees thirty-seven (37)
43 minutes east eight hundred and forty-one (841) feet to corner No. 41, a granite rock 15 x 8 x 4 inches in size, marked "41–255"; thence north thirty-two (32) degrees seven (7) minutes east four hundred and eighty-two and two-tenths (482_{10}^{2}) feet to corner No. 42, a granite rock 18 x 10 x 3 inches in size, marked "42–255"; thence north forty-nine (49) degrees thirteen (13) minutes east one hundred and fifty-five and five-tenths (155_{10}^{5}) feet to corner No. 43, a granite rock 17 x 10 x 3 inches in size, marked "43–255"; thence north seventy-eight (78) degrees forty-two minutes east one hundred and forty-two (142) feet to corner No. 44, a granite rock 18x8x4 inches in size, marked "44–255"; thence north fifty-five (55) degrees east one hundred and forty-one (141) feet to corner No. 45, a granite rock 20x8x8 inches in size, marked "45–255," from which a blazed pine fifteen (15) inches in diameter, marked "45–255," bears south thirty-three (33) degrees west at the distance of fifty-three and five-tenths (53_{10}^{5}) feet, and a blazed pine sixteen (16) inches in diameter, marked "45–255," bears south thirty-eight (38) degrees forty-six (46) minutes east at the distance of twenty-four (24) feet; thence from said corner No. 45 north fifty-nine (59) degrees forty-two (42) minutes east one hundred (100) feet to corner No. 46, a

granite rock 16 x 9 x 4 inches in size, marked "46–255"; thence south seventy (70) degrees eight (8) minutes east two hundred and forty-nine and five-tenths ($249\frac{5}{10}$) feet to corner No. 47, a granite rock 16 x 8 x 3 inches in size, marked "47–255"; thence
44 north fifty (50) degrees east one hundred and sixty-six and five-tenths ($166\frac{5}{10}$) feet to corner No. 48, a granite rock 22 x 9 x 8 inches in size, in mound of stone marked "48–255;" thence south eighty (80) degrees ten (10) minutes east one hundred and eighty (180) feet to corner No. 49, a granite rock 18 x 10 x 4 inches in size, marked "49–255"; thence south seventy-four (74) degrees fifteen (15) minutes east ninety-seven (97) feet to corner No. 50, a granite rock 18 x 9 x 9 inches in size, marked "50–255"; thence south forty (40) degrees twenty-eight (28) minutes east one hundred and twenty-five (125) feet to corner No. 51, a granite rock 18 x 10 x 9 inches in size, marked "51-255"; thence north thirty (30) degrees fifty-six (56) minutes east twenty (20) feet to creek forty-nine (49) feet, cross creek fifty (50) feet to corner No. 52, a granite rock 19 x 10 x 4 inches in size, in mound of stones marked "52–255"; thence north forty-three (43) degrees thirty-two (32) minutes west one hundred and fifty (150) feet to corner No. 53, a granite rock 17 x 9 x 7 inches in size in mound of stone marked "53–255"; thence north seventy-four (74) degrees fifteen (15) minutes west ninety-seven (97) feet to corner No. 54, a granite rock 18 x 10 x 5 inches in size, marked "54–255"; thence north eighty (80) degrees ten (10) minutes west one hundred and eighty (180) feet to corner No. 55, a granite rock 14 x 10 x 6 inches in size, marked "55–255"; thence south fifty (50) degrees west one hundred and sixty-six and five-tenths ($166\frac{5}{10}$) feet to corner No. 56, a granite rock 16 x 8 x 5 inches in size,
45 marked "56-225"; thence north seventy (70) degrees eight (8) minutes west two hundred and forty-nine and five-tenths ($249\frac{5}{10}$) feet to corner No. 57, a granite rock 15 x 8 x 7 inches in size, marked "57-255"; thence south seventy-two (72) degrees fifty-four (54) minutes west twenty-eight and five-tenths ($28\frac{5}{10}$) feet to corner No. 58, a granite rock 14 x 10 x 4 inches in size, marked "58-255"; thence south fifty-seven (57) degrees west one hundred and twenty-six (126) feet to corner No. 59, a granite rock 16 x 9 x 7 inches in size, marked "59-255"; thence south forty-four (44) degrees west sixty-nine (69) feet to corner No. 60, a granite rock 14 x 10 x 4 inches in size, marked "60-255"; thence south sixty-five (65) degrees ten (10) minutes west seventy-five (75) feet to corner No. 61, a granite rock 15 x 9 x 6 inches in size, in mound of stones marked "61-255"; thence south eighty-nine (89) degrees fifty-two (52) minutes west eighty-one (81) feet to corner No. 62, a granite rock 15 x 8 x 6 inches in size, marked "62-255"; thence south sixty-two (62) degrees fifty (50) minutes west seventy (70) feet to corner No. 63, a granite rock 14 x 10 x 8 inches in size, marked "63-255"; thence south thirty-five (35) degrees twenty-four (24) minutes west fifty-four and five-tenths ($54\frac{5}{10}$) feet to corner No. 64, a granite rock 14 x 8 x 7 inches in size, marked "64-255"; thence south fifty-six

and acknowledged by the local laws, customs, and decisions of courts.

Fifth. That in the absence of necessary legislation by Congress, the Legislature of Colorado may provide rules for working the mining claim or premises hereby granted, involving easements, drainage, and other necessary means to the complete development thereof.

In testimony whereof I, Rutherford B. Hayes, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-ninth day of March, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

{ United States General Land Office Seal. }

51 By the President.

R. B. HAYES.
By WM. H. CROOK, *Secretary.*

S. W. CLARK,
Recorder of the General Land Office.

Recorded, vol. 38, pages 399 to 412, inclusive. *Examined.*

(Endorsed:) No. 1896; patent; United States to Thomas Starr; State of Colorado, Lake county, ss.; filed April 7th, 1879, at 5 P. M., and recorded in book J, page 628; Jos. H. Wells, recorder, p. Wm. H. Minor, dep'y; fees, $18.00. Bell. Plaintiffs' exhibit A. J. W. Christy, sten'r. 11 | 25 | 79.

The defendants, by their counsel, objected to the introduction of said patent, but the court overruled said objection and admitted the patent in evidence, when it was read to the jury; to which ruling of the court in overruling said objection, defendants, by their counsel, then and there excepted.

52 Plaintiff, by its counsel, next offered in evidence a deed from Thomas Starr to August R. Meyer, which was admitted to include the ground in dispute in this case, marked Plaintiffs' Exhibit "B," which is in words and figures following, to wit:

This deed, made this day of April, in the year of our Lord one thousand eight hundred and seventy-nine, between Thomas Starr, of the county of Lake and State of Colorado, of the first part, and Aug. R. Meyer, of the county of Lake and State of Colorado, of the second part:

Witnesseth, that the said party of the first part, for and in consideration of the sum of one dollar and other good and valuable considerations to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed, and quit-claimed,

and by these presents does remise, sell, convey, and quit-claim unto the said party of the second part, his heirs and assigns forever, all the right, title, interest, claim, and demand which the said party of the first part has in and to the following described tract of land, situate, lying, and being in the county of Lake and State of Colorado, to wit:

Beginning at corner No. 1, where stands a corner post, said post bears from United States location monument No. 1, established by J. S. Titcomb, United States deputy mineral surveyor in Cali-
53 fornia mining district, north 50° 38′ east ten hundred and seventy (1070) feet; thence S. 16° 20′ E. twelve hundred and thirty-one (1231) feet to corner No. 2; thence N. 88° 15′ E. five hundred and seventeen (517) feet to corner No. 3; thence north 16° 20′ west two hundred (200) feet to corner No. 4; thence N. 70° 30′ E. two hundred and forty-five (245) feet to corner No. 5; thence N. 78° 45′ E. two hundred and forty-one (241) feet to corner No. 6; thence N. 3° W. fifty-nine (59) feet to corner No. 7; thence N. 16° 20′ W. one hundred and thirty-seven (137) feet to corner No. 8; thence N. 88° 5′ E. sixty-seven (67) feet to corner No. 9; thence N. 6° 50′ W. six hundred and fifty-nine (659) feet to corner No. 10; thence N. 27° 40′ E. three hundred and fifty-four (354) feet to corner No. 11; thence N. 29° 40′ W. twenty-eight (28) feet to corner No. 12; thence S. 73° 40′ W. fourteen hundred and thirteen (1413) feet to the place of beginning; said tract containst hirty-one and six-tenths ($31\frac{60}{100}$) acres more or less. In all the aforementioned courses the variation of the compass is reckoned to be 15 degrees east of the true meridian. Excepting and reserving from said tract of ground the lot of ground on which the buildings known as the "City Hall" and the "Little Casino" are situated, said lot fronting on Chestnut street, and being about thirty-five feet wide on Chestnut street, and extending back to the alley, being the ground between Billy Nye's saloon and the Hall and Coleman's saloon.

To have and to hold the same, together with all and singular
54 the appurtenanees and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest, and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit, and behoof of the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) THOMAS STARR. [SEAL.]

Signed, sealed and delivered in presence of—

STATE OF COLORADO, *Lake County,* } *ss:*

I, A. S. Weston, a notary public in for said county, in the State aforesaid, do hereby certify that Thomas Starr, personally known to me as the person whose name is subscribed to the annexed deed, appeared before me this day in person and acknowledged that he

signed, sealed, and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4th day of April, A. D. 1879.

[NOTARIAL SEAL.] (Signed) A. S. WESTON,
Notary Public.

55 (Endorsed:) Plt'f's Exhibit C; No. 1790; Quit-claim Deed; Thomas Starr to Aug. R. Meyer. State of Colorado, Lake county, ss: I hereby certify that this instrument was filed for record in my office at 4:30 o'clock P. M., April 4th, 1879, and is duly recorded in book 14, page No. 232. Jos. H. Wells, recorder; p. Wm. P. Miner, deputy. Fees $2.00, B.

Which said deed was then and there admitted in evidence and read to the jury.

Plaintiff, by its counsel, next offered in evidence deed from August R. Meyer to The St. Louis Smelting and Refining Company, dated April 29th, 1879, which was admitted by defendants to include the ground in dispute in this suit, marked Plaintiff's Exhibit "C," which is in words and figures following, to wit:

This deed, made this seventeenth day of April, in the year of our Lord one thousand eight hundred and seventy-nine, between August R. Meyer, of the county of Lake and State of Colorado, of the first part, and the St. Louis Smelting and Refining Company, a corporation, and State of Missouri, of the second part:

Witnesseth, that the said party of the first part, for and in consideration of the sum of one dollar and other good and valuable considerations to the said party of the first part in hand paid by
56 the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed, and quit-claimed, and by these presents does remise, sell, convey, and quit-claim unto the said party of the second part, its successors, heirs, and assigns forever all the right, title, interest, claim, and demand which the said party of the first part has in and to the following described real estate, situate, lying, and being in the county of Lake and State of Colorado, to wit:

Beginning at corner No. 1, which is the same as corner No. 83 of approved survey No. 255, which bears from U. S. locating monument No. 1, set by J. S. Titcomb, U. S. deputy mineral surveyor, N. 50° 38′ E. 1,070 feet; thence S. 16° 20′ E. 500 feet to corner No. 2; thence N. 74° 37′ E. 142.3 to corner No. 3; thence S. 15° 23′ E. 385.0 feet to corner No. 4; thence S. 86° 56′ E. 575.0 feet to corner No. 5; thence N. 81° 53′ E. 68.7 to corner No. 6; thence N. 78° 45′ E. 241.0 feet to corner No. 7; thence N. 3° W. 59 feet to corner No. 8; thence N. 16° 20′ W. 137.0 feet to corner No. 9; thence N. 88° 5′ E. 67.0 feet to corner No. 10; thence N. 6° 50′ W. 659.0 feet

to corner No. 11; thence N. 27° 40′ E. 354.⁰ to corner No. 12; thence N. 29° 40′ W. 20.⁰ feet to corner No. 13; thence S. 73° 40′ W. 1,413.⁰ feet to the place of beginning.

To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise
57 thereunto appertaining, and all the estate, right, title, interest, and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit, and behoof of the said party of the second part, its successors, heirs, and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) AUG. R. MEYER. [SEAL.]

Signed, sealed, and delivered in presence of—

STATE OF COLORADO, } ss:
Arapahoe County, }

I, R. Ernst Schulz, a notary public in and for said county, in the State aforesaid, do hereby certify that Aug. R. Meyer, who is personally known to me as the person whose name is subscribed to the annexed deed, appeared before me this day in person and acknowledged that he signed, sealed, and delivered the said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this nineteenth day of April, A. D. 1879.

(Signed) R. ERNST SCHULZ,
Notary Public.

{ Notarial Seal. }

58 (Endorsed:) No. 2,704; Quit-claim Deed; Plff's Exhibit D; August R. Meyer to St. Louis Smelting and Refining Co. State of Colorado, Lake county, ss: I hereby certify that this instrument was filed for record in my office at 11.30 o'clock A. M., April 29th, 1879, and is duly recorded in Book 18, p. No. 42. (Signed) Jos. H. Wells, recorder; p. Wm. P. Miner, deputy. Fees $1.75, B.

And the said deed was then and there admitted in evidence and read to the jury.

Plaintiff, by its counsel, next offered in evidence a quit-claim deed from Thomas Starr to The St. Louis Smelting and Refining Company, dated the 27th day of August, 1877, which was by defendants admitted to include the ground in dispute, (in this case marked Exhibit "D,") which is in words and figures following, to wit:

This deed, made this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and seventy-seven, between Thomas Starr, of Lake county, State of Colorado, of the first part, and

the St. Louis Smelting and Refining Company, a corporation existing under the laws of the State of Missouri, of the second part.

59 Given under my hand and notarial seal this 27th day of August, A. D. 1877.

(Signed) A. S. WESTON,
Notary Public.

{Notarial Seal.}

(Endorsed:) Quit-claim Deed; Thomas Starr to St. Louis —— Co.; No. 1,185. State of Colorado, county of Lake, ss: Filed for record at 2 P. M., April 7th, A. D. 1879, and recorded in Book 14, page 257. Jos. H. Wells, recorder. Fees $2, B. Pltff's Exhibit I. J. W. Christy, str.; St. L. S. & R. Co.

And the said deed was then and there admitted in evidence and read to the jury.

Plaintiff, by its counsel, next offered in evidence the certificate of the register and receiver of the United States land office at Fairplay, Colorado, for the purpose of showing that the application for patent was made on the 18th of March, 1878, marked Exhibit "E," which is in words and figures following, to wit:

61 UNITED STATES OF AMERICA, }
State of Colorado, Lake County, } *ss:*

I, John J. Henry, register of the United States land office at Leadville, in the State of Colorado, do hereby certify that on the 18th day of March, 1878, Thomas Starr made application at this place to be allowed to enter and pay for, and receive a patent for, a certain placer mining claim known as the Starr Placer Claim, situated in California Mining District, county of Lake and State of Colorado, and that such proceedings were thereafter had in this office in accordance with law.

That on the 6th day of March, 1879, the said Thomas Starr entered and paid for the said placer mining claim, and received a duplicate receiver's receipt therefor.

Given under my hand this 13th day of September, A. D. 1879.

(Signed) JNO. J. HENRY, *Register.*

(Endorsed:) Certificate of application and entry of Starr Placer Claim; Exhibit B of plaintiffs; J. W. Christy, steng'r; 11 | 25 | 79.

62 And the said certificate was then and there admitted in evidence and read to the jury.

Plaintiff, by its counsel, next offered in evidence a certified copy from the office of the Secretary of State of Colorado, under the seal of said State, of the articles of incorporation of the St. Louis Smelting and Refining Company, duly certified, dated May 10, 1871,

marked Exhibit "F," which is in the words and figures following, to wit:

STATE OF MISSOURI, } ss:
County of St. Louis, }

Be it remembered, that on this tenth day of May, A. D. 1871, the undersigned, desirous of organizing a body corporate for purposes hereinafter stated, in pursuance of chapters sixty-two and sixty-nine, title twenty-four of the General Statutes of the State of Missouri, as constituted and revised by the General Assembly, do by these presents set forth and declare our articles and certificate of incorporation as follows:

This corporation shall be known and designated under the name and style of "The St. Louis Smelting and Refining Company."

63 The objects and purposes for which this corporation and company has been formed and organized are for mining, smelting, and refining gold, silver, and other ores, metals, and mineral substances, and for purchasing, crushing, pulverizing, reducing, transporting, and working said ores, metals, and mineral substances, and of preparing the same for market, sale, trade, or use, and of prospecting for, discovering, mining, and securing valuable mines and claims, and of purchasing, selling, and leasing mining property and other real estate, and of running, conducting, and carrying on all such mills, furnaces, work-shops, and stores for supplying workmen and others as may be convenient or useful in connection therewith, and also for establishing and carrying on whatsoever other business as may convenient, proper, or necessary to be done in connection with and for the success of said company's operations; and the main office or place of business of this corporation is to be in the city and county of St. Louis and State of Missouri, and the

65 smelting, mining, and other operations of said company are to be carried on in said State of Missouri and in such other places and States as the business of said corporation may from time to time require. The capital stock of said corporation shall be two hundred and fifty thousand dollars, divided into twenty-five hundred shares of the par value of one hundred dollars each.

The number of directors of said St. Louis Smelting and Refining Company is seven, and their names are Geo. H. Laker, Edwin Harrison, J. L. Howard, G. W. Chadbourne, John B. Maude, Martin Collins, and W. C. Laker, all of the city and county of St. Louis and State of Missouri aforesaid, who shall hold their office until their successors are duly elected and qualified, and who shall cause books of subscription to the capital stock of said company to be opened at said company's office as aforesaid, and at such other place or places as may be designated by them, the said board of directors or corporators, which books shall be kept open for such time and under such rules as may be by them prescribed.

In witness whereof, we have hereunto set our respective hands and seals in the presence of each other as witnesses on this the said

10th day of May, A. D. 1871, in the city and county of St. Louis and State of Missouri aforesaid.

	EDWIN HARRISON.	[SEAL.]
	GEO. H. LAKER.	[SEAL.]
66	J. L. HOWARD.	[SEAL.]
	G. W. CHADBOURNE.	[SEAL.]
	JNO. B. MAUDE.	[SEAL.]
	MARTIN COLLINS.	[SEAL.]
	WM. L. LAKER.	[SEAL.]

STATE OF MISSOURI, *County of St. Louis,* } *ss:*

Be it remembered that Geo. H. Laker, Edwin Harrison, J. L. Howard, G. W. Chadbourne, Jno. B. Maude, Martin Collins, and Wm. L. Laker, who are personally known to the undersigned, a notary public within and for said county, to be the persons whose names are subscribed to the foregoing instrument as the parties thereto, this day appeared before me and acknowledged that they executed the same as their voluntary act, for the uses and purposes therein contained, set forth, and specified.

In witness whereof, I have hereunto set my hand and notarial seal this 10th day of May, 1871.

(Signed) G. H. LAKER, JR.,
[SEAL.] *Notary Public, St. Louis County.*

Filed and recorded May 11th, 1871.
WM. C. KENNETT, *Recorder.*

STATE OF MISSOURI, *City of St. Louis,* } *ss:*

I, the undersigned, recorder of deeds, do hereby certify the
67 foregoing to be a true copy of the articles of incorporation of the St. Louis Smelting and Refining Company, together with the acknowledgment, &c., thereof, as fully as the same appears of record in my office in Book 430, page 34.

{ Seal of Recorder of Deeds, St. Louis, State of Mo. } Witness my hand and official seal this 22d day of July, 1878.

D. H. MACADAM, *Recorder.*

STATE OF COLORADO, *Secretary's Office,* } *ss:*

I, Norman H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a correct transcript of the certified copy of the articles of incorporation of the St. Louis Smelting and Refining Company, which was filed in this office the twenty-sixth day of July, A. D. 1878, at 9.30 o'clock A. M., and admitted to record.

{Great seal of the State.}

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this 12th day of September, A. D. 1879.

(Signed) N. H. MELDRUM,
Secretary of State.

(Endorsed:) Articles and Certificates of Incorporation of the St. Louis Smelting and Refining Company; Certified Copy; Exhibit F of pl'ffs; 11 | 25 | 79; J. W. Christy, sten'g'r.

68 Which certified copy of articles of incorporation was then and there admitted in evidence and read to the jury.

Plaintiff, by its counsel, next offered in evidence a certified copy from the office of the Secretary of State of Colorado, of the certificate of the Secretary of State of the State of Missouri, certifying that the said St. Louis Smelting and Refining Company was legally organized under the laws of the State of Missouri, which certificate is marked Exhibit "G," and is in the words and figures following, to wit:

STATE OF MISSOURI, *ss:*

I, Michael K. McGrath, Secretary of State of Missouri, hereby certify that the annexed pages contain a full, true, and complete copy of the certificate of corporate existence issued on the 18th day of May, A. D. eighteen hundred and seventy-one, to the St. Louis Smelting and Refining Company, as the same appears of record in my office.

{Great seal of the State.}

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Missouri. Done at my office, in the city of Jefferson, this twenty-ninth day of June, A. D. eighteen hundred and seventy-eight.

MICH'L K. McGRATH,
Secretary of State.

69 STATE OF MISSOURI,
OFFICE OF THE SECRETARY OF STATE,
[No 222.] CITY OF JEFFERSON, *May 18th*, 1871.

Whereas George H. Laker, Edwin Harrison, J. L. Howard, and others, have filed in this office a certificate or declaration in writing, as provided in section 4, article 1, chapter 37 of Wagner's Statutes of the State of Missouri, setting forth all the facts therein required, and having in all respects complied with the requirements of law governing the formation of private corporations for manufacturing and business purposes, as contained in articles I and VII of chapter 37 of said statutes:

Now, therefore, I, Eugene F. Weigel, Secretary of State for the State of Missouri, in virtue and by authority of law, do hereby cer-

tify that said parties, their associates and successors, have become a body politic and corporate under the corporate name of "The St. Louis Smelting and Refining Company," and by that name have the right to sue and be sued, purchase, hold, and convey real and personal property, and to have and enjoy all the rights and privileges granted to manufacturing and business corporations under the laws of this State, subject to their articles of association, and all legal restrictions and liabilities in relation thereto.

In testimony whereof, I have hereunto set my hand and
70 affixed the great seal of the State of Missouri. Done at the city of Jefferson this 18th day of May, A. D. 1871.

EUGENE F. WEIGEL,
[SEAL.] *Secretary of State.*

STATE OF COLORADO, } ss:
Secretary's Office, }

I, Norman H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a correct transcript of the certified copy of the certificate of corporate existence issued on the 18th day of May, A. D. 1871, to the St. Louis Smelting and Refining Company, which was filed in this office the thirteenth day of July, A. D. 1878, at 9.30 o'clock A. M., and admitted to record.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this twelfth day of September, A. D. 1879.

{Great Seal of the State.} (Signed) N. H. MELDRUM,
Secretary of State.

(Endorsed:) Certificate of Incorporation of the St. Louis Smelting and Refining Company; Certified by Sec'y of State of Missouri; Plff's Exhibit H; 11 | 23 | 79; J. W. Christy, steng'r.

71 Which was then and there admitted in evidence and read to the jury.

Plaintiff, by its counsel, next offered in evidence a certified copy from the office of the Secretary of State of Colorado, of the statutes of the State of Missouri, under which this corporation, the St. Louis Smelting and Refining Company, was organized, marked Exhibit H, which is in the words and figures following, to wit:

OFFICE OF SECRETARY OF STATE,
CITY OF JEFFERSON, MO.

I, Michael K. McGrath, Secretary of State of the State of Missouri, do hereby certify that the annexed pages contain a true, complete, and full copy of article I and VII of chapter 37 of Wagner's Statutes of the State of Missouri, entitled "Corporations," Private, and also of section 5 of an act of the General Assembly of Missouri entitled

"An act declaring Wagner's edition of the statutes of Missouri *prima facie* evidence of the statute law, etc.," approved March 16, 1870; also, of certain acts of the General Assembly of the State of Missouri entitled as follows: "An act to amend chapter sixty-nine of the general statute relating to manufacturing and business companies," "approved March 22, 1873"; "An act to amend the sixth section of chapter sixty-nine of the general statutes of the
72 State of Missouri, being section six of article seven of chapter thirty-seven of Wagner's Statutes," approved February 7, 1873; and "An act to amend chapter sixty-nine of the general statutes of Missouri, relating to manufacturing and business companies, by adding new sections thereto, to be known and designated as sections twenty, twenty-one, and twenty-two," approved April 12, 1877, as appears by comparing the same with the original of said statutes and acts now on file, as the law directs, in this office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Missouri.

Done at office in the city of Jefferson this second day of August, A. D. eighteen hundred and seventy-eight.

{The great seal of the State of Missouri.} MICH'L K. McGRATH,
Secretary of State.

CHAPTER 37.—CORPORATIONS, PRIVATE.

ARTICLE I.

General Powers and Liabilities.

Section 1. Corporation, as such, has power:

First. To have succession by its corporate name for the period limited in its charter, and when no period is limited, for twenty years.
Second. To sue and be sued, complain and defend in any
73 court of law or equity. Third. To make and use common seal, and alter the same at pleasure. Fourth. To hold, mortgage, or otherwise convey such real and personal estate as the purpose of the corporation shall require, not exceeding the amount limited in its charter or the law creating it, and also to take, hold, and convey such other property, real, personal, or mixed, as shall be necessary or requisite for such corporation to acquire in order to retain or secure the payment of any indebtedness or liability belonging to the corporation. Fifth. To appoint such subordinate officers and agents as the business of the corporation shall require, and allow them a suitable compensation. Sixth. To make by-laws, not inconsistent with existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock. Seventh. To increase or diminish (by a vote of its stockholders, cast as its by-laws may direct) the number of its directors or trustees to not less than three nor more than thirteen, and may, in like manner, change its corporate name without in anywise effecting its rights, privileges, or liabilities; such changes of name or number of directors or trustees shall take effect and be in force from the date at which the president

or secretary of such corporation shall file with the Secretary of State an affidavit setting forth the name adopted or the number of directors or trustees fixed, together with the date at which such change in name or number of directors or trustees was voted by the stockholders of such corporation.

74 Section 2. That so much of the first section of the sixty-second chapter of the Revised Statutes as authorize every private corporation to increase or diminish the number of its directors or trustees, and to change its corporate name, and all the provisions of said section as to the mode and manner of exercising such authority, shall be holden to extend to, and the same are hereby applicable to, all such private corporations within this State as by the provisions of their charter are exempt from the general laws in relation to corporations.

Section 3. By-laws to direct the manner of taking the votes of the stockholders on the question of increasing or diminishing the number of directors or trustees, or of changing the corporate name, may be made by the directors of the corporation for the time being.

Section 4. Whenever any corporation shall be organized under the laws of this State it shall be the duty of the officers of said corporation to file with the Secretary of State a copy of the articles of association or incorporation, and the corporate existence of such corporation shall date from the time of filing said copy of such articles; and a certificate by the Secretary of State, under the seal of the State, that said corporation has become duly organized, shall be taken by all the courts of this State as evidence of the corporate existence of such corporation. Any private or public corporation may increase its capital stock to any amount, not exceeding double the

75 amount of their authorized capital, by holding an election of the stockholders in conformity with the by-laws thereof, and if at such election a majority of the stockholders shall vote for the increase of stock, the same may be increased by a vote of the board of directors, trustees, or other business managers of such corporation, and upon such increase of stock being made in accordance with the by-laws, the date, amount, and subscription for such new stock shall be returned to the office of Secretary of State, and from the time the same is filed the increase of stock shall become a part of the capital thereof.

Section 5. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created or organized.

Section 6. In addition to the powers enumerated in the first section of this chapter, and to those expressly given in its charter, or in the act under which it is incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers enumerated or given; but any railroad company, macadamized, graded or plank road company, telegraph company, insurance company, bank, savings bank, fund company, manufacturing or business company, or other business association, may subscribe to or acquire shares in the capital stock or purchase

the bonds or obligations of any other corporation formed under the laws of this State for the object of erecting any building or buildings to be used, in whole or part, as a merchants' business exchange in the town or city having a population of twenty thousand permanent inhabitants in which such corporation, or association so subscribing, acquiring, or purchasing as aforesaid, has a business office or agency: provided, that a majority of stockholders in interest, voting at an election duly called and held for that purpose, shall first assent to such subscription or acquirement of interest; and provided further, that the amount subscribed shall not exceed ten per cent, of the paid-up capital or reserve fund of any corporation.

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Section 7. When the corporate powers of any corporation are directed by its charter or the provisions of this law to be exercised by any particular body or number of persons, if it be not otherwise provided in the charter or law creating it, shall be a sufficient number to form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

Section 8. Parol contracts may be binding upon aggregate corporations, if made by an agent duly authorized by a corporate vote, or under the general regulations of the corporation, and contracts may be implied on the part of such corporations from their corporate acts, or those of an agent whose powers are of a general character.

Section 9. The first meeting of all corporations shall, unless otherwise provided for in their acts of incorporation, be called by a notice signed by some one or more of the persons named as corporators in the act of incorporation, and setting forth the time, place, and purpose of the meeting, and such notice shall, seven days at least before the meeting, be delivered to each member, or published in some newspaper of the county where the corporation may be established, or if there be no such newspaper, then in the nearest newspaper.

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Section 10. Whenever for want of sufficient by-laws for the purpose, or of officers duly authorized, or from the neglect or refusal of such officers, or from other legal impediments, a legal meeting of any corporation cannot otherwise be called, any justice of the peace in the county where it is desirable to hold such meeting, or where such corporation is established, if it be local, may, on a written application of two or more members thereof, issue a warrant to either of said members, directing him to call a meeting of such corporation by giving such notice as is required in the preceding section.

Section 11. Whenever any meeting of any corporation shall be called by warrant from a justice of the peace, the person to whom such warrant is directed may call such meeting to order, and preside therein until a presiding officer is chosen and qualified, if there be no officer present whose duty it may be to preside.

Section 12. When all the members of a corporation shall be present at any meeting, however called or notified, and shall sign a

written consent thereto on the record of such meeting, the acts of such meeting shall be as valid as if legally called and notified.

78 Section 13. If any execution shall have been issued against the property or effects of a corporation, and if there cannot be found whereon to levy such execution, then such execution may be issued against any of the stockholders, to an extent equal in amount to the amount of stock by him or her owned, together with any amount unpaid thereon: provided always, that no execution shall issue against any stockholder except upon an order of the court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open court, after sufficient notice in writing to the persons sought to be charged, and upon such motion such court may order execution to issue accordingly.

Section 14. The clerk or other officer having charge of the books of any corporation, on demand of any officer holding any execution against the same, shall furnish the officer with the names, places of residence, (so far as to him known,) and the amount of liability of every person liable as aforesaid.

Section 15. The board of directors, trustees, or other body of persons lawfully exercising the corporate powers of any corporation, may require the subscribers of the capital stock of the company to pay the amount respectively by them subscribed in such manner and in such installments as may be required by the by-laws. If any stockholders shall neglect to pay any installment as required

79 by a resolution of the board of directors, or persons exercising the corporate powers of such corporation, the directors or other persons exercising such corporate powers may declare his stock and all previous payments forfeited to the use of the company; but no stock shall be forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, (properly directed to him at the post-office nearest his usual place of residence,) stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice may be served as aforesaid at least sixty days previous to the day on which such payment is required to be made.

Section 16. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the laws of the company; but no share shall be transferred until all previous calls thereon shall have been fully paid in.

Section 17. All bodies corporate, by any suit at law, in any court in this State, may sue for, recover, and receive from their respective members all arrears or other debts, dues, and other demands which now are or hereafter may be owing to them, in like mode, manner, and form as they might sue for, recover, and receive the same from any person who might not be one of their body, any law,

80 usage, or custom to the contrary thereof notwithstanding.

Section 18. If the directors of any corporation shall knowingly declare and pay any dividend when the corporation is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted as long as they shall, respectively, continue in office; provided, that the amount for which they shall all be so liable shall not exceed the amount of such dividend; and that if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall file their objection in writing with the clerk, or other officer of the corporation having charge of the books, they shall be exempted from the said liabilities.

Section 19. Any corporation incorporated by any other State or *county*, and having property in this State, shall be liable to be sued, and the property of the same shall be subject to attachment in the same manner as individuals residents of other States or countries, and having property are now liable to be sued, and their property subject to be attached; provided, that all railroad companies who own and operate roads terminating opposite to the city of St. Louis, and whose chief office or place of business is in the city of St. Louis, shall be sued in the same manner, and no other, *that* railroad companies chartered by the laws of this State are now sued.

81 Section 20. It shall be lawful for any corporation to convey lands by deed, sealed with the common seal of said corporation, and signed by the president or the presiding member or trustee of said corporation, and such deed, when acknowledged by such officer to be the act of the corporation, or proved in the usual form prescribed for other conveyances for lands, shall be recorded in the recorder's office of the county where the land lies in like manner with other lands.

Section 21. Upon the dissolution of any corporation already created, or which may hereafter be created, by the laws of this State, the president and directors or managers of the affairs of corporations at the time of its dissolution, by whatever name they may be known in law, shall be trustees of such corporation, with full power to settle the affairs, collect the outstanding debts, and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation at the time of its dissolution as far as such money and property will enable them; to sue for and recover such debts and property by the name of the trustees of such corporation, describing it by its corporate name, and may be sued by the same; and such trustees shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall have come into their hands.

Section 22. If any company formed under this act dissolve,
82 leaving debts unpaid, suits may be brought against any person or persons who were stockholders at the time of such dissolution, without joining the company in such suit, and if judgment be rendered and execution satisfied, the defendant or defendants may

sue all who were stockholders at the time of dissolution for the recovery of the portion of such debt for which they were liable, and the execution upon the judgment shall direct the collection to be made from property of each stockholder respectively; and if any number of stockholders (defendants in the case) shall not have property enough to satisfy his or their portion of the execution, then the amount of deficiency shall be divided equally amongst all the remaining stockholders, and collections made accordingly, deducting from the amount a sum in proportion to the amount of stock owned by the plaintiff at the time the company dissolved.

Section 23. No charter of any corporation granted by the legislature of this State shall be altered, suspended, or repealed by such legislature, unless proof be made satisfactory to the legislature that notice of such proposed suspension or repeal has been given to the president and secretary of such corporation for at least one month before the time at which such alteration, suspension, or repeal will be proposed.

Section 24. A failure to elect directors on the day designated in the by-laws of any company incorporated under the laws of this State shall not have the effect of dissolving such incorporated company.

83 Section 25. In all actions which may be instituted against any corporation, or incorporated company, it shall be sufficient to issue a summons commanding the corporation by their corporate name to appear and answer the action; which summons shall be directed as provided by this chapter, and returnable in like manner, and subject to the same rules and regulations as the like process in the case of individuals.

Section 26. When any such summons shall be issued against any banking or other incorporated company, service on the president or other chief officer of such company, or, in his absence, by leaving a copy thereof at any business office of said company with the person having charge thereof, shall be deemed a sufficient service; and if the corporation have no business office in the county where suit is brought, or if no person shall be found in charge thereof, and the president or chief officer cannot be found in such county, a summons shall be issued directed to the sheriff of any county in this State where the president or chief officer of such company may reside or be found, or when any officer or place of business may be kept of such company, and the service thereof shall be the same as above.

Section 27. On the return of such summons, served as aforesaid, the officer serving the same shall express in his return on whom, how, and when the same has been executed; and if not on the chief officer, he shall express the absence of such officer, or that he cannot be found.

84 Section 28. Suits against corporations shall be commenced either in the county where the cause of action accrued, or in the county where such corporation have or usually keep an office or agent for transaction of their usual and customary business.

Section 29. All notices, orders, and rules required to be served in the progress of any cause, shall be served in like manner as in other civil cases.

Section 30. In case the sheriff or other officer shall return any summons not served, and shall be made to appear to the court that process cannot be served, the court or clerk thereof, in vacation, shall make an order directing the defendant to be notified of the commencement of the suit by publication in the same manner as is provided by law for the notifying of non-resident defendants in civil actions.

Section 31. The process upon a judgment against any corporation shall be *fieri facias*, which the sheriff or other officer shall levy on the moneys, goods and chattels, land and tenements of such corporation, and proceed thereon as in civil cases.

Section 32. Proceedings against garnishees under the provisions of this act, shall be the same as against the garnishees summoned in the case of an original attachment, but no judgment shall be rendered against him for any debt to become due at a future day, until after the same shall become due.

85 Section 33. For all moneys paid by any garnishee under this act, he shall have credit against the corporation to whom it was due.

Section 34. If a sufficient sum be not made to satisfy such judgment and costs, other writs of execution may be issued as aforesaid, from time to time, until the whole is satisfied.

Section 35. If any moneys remain in the hands of the officer after satisfying the judgment and all costs, he shall pay the same to corporation or its order.

Section 36. Nothing contained in this chapter shall be construed to extend to any county or township, or to any public university, academy, seminary, or school incorporated by the laws of this State.

Section 37. The records of any company incorporated un—— the provisions of this law, or copies thereof duly authenticated by the signature of the president and secretary of such company under the corporate seal thereof, shall be competent evidence in any suit to which such company may be a party.

86 ARTICLE VII.

Manufacturing and Business Companies.

Section 1. Any three or more persons may associate together in the manner hereinafter provided, and have all the powers of a corporation for either of the following objects: First, for the purpose of carrying on any kind of mining, mechanical, chemical, manufacturing, smelting, printing, coal oil or petroleum business. Second, for the encouragement and promotion of agriculture and the improvement of stock, and for these purposes may establish fair grounds. Third, to construct toll bridges. Fourth, to erect hotels, halls, market-houses, warehouses, exchange and other buildings. Fifth, to build wharves, docks, grain elevators, levees, and to construct

canals and embankments for the reclaiming of lands. Sixth, to convey and transport persons and freights on land or water by any mode of conveyance whatever. Seventh, to construct horse railroads. Eighth, to purchase and use fire engines, hose, hooks and ladders, and all other apparatus necessary or useful to prevent and extinguish fires. Ninth, for the supplying of any town, city, district, neighborhood or village with gas or water. Tenth, to establish steam or other ferries. Eleventh, for any other purpose intended for mutual profit, not otherwise especially provided for and not inconsistent with the constitution and laws of this State.

87 Section 2. Such persons shall make, sign, and acknowledge before some officer authorized by law to take acknowledgments of deeds, a certificate in writing in which shall be stated the corporate name of said company, the objects for which such company is formed, the amount of the capital stock of said company, the number of shares of which such stock shall consist, and the price of each share, the number of trustees or directors, their names, who shall manage the affairs of such company for the first year, and the name of the place in which the business operations of the company shall or may be carried on, and record the same in the recorder's office of the county in which said company shall transact its business. The persons so acknowledging and giving said certificate, and their associates and successors, shall, for a term not exceeding fifty years next succeeding the recording of such certificate, be a body corporate, and by such name they and their successors shall be entitled to have, possess, and enjoy all the rights and privileges conferred by law upon corporations, subject to the provisions of this chapter as hereinafter specified.

Section 3. The property or business of such company shall be controlled, managed, and conducted by directors, not less than three nor more than thirteen in number, who shall respectively be stockholders in such company, and one of whom shall be a bona-fide citizen of this State, to be elected by ballot by the stockholders in said

88 company for one year, at such time and place as shall be directed by the laws of such company, of which time and place at least ten days' notice shall be published in some newspaper published nearest to the business place of such company. Such election shall be made by such of the stockholders as shall attend in person or by proxy in writing; each stockholder shall be entitled to one vote on each share of stock; the persons having the greatest number of votes shall be declared elected. In case the election shall not be made on the day named, the said corporation shall not thereby be dissolved, but an election may be held at any other time agreeable to the directions of the by-laws of said company; and the persons so elected shall hold their office until others are elected and qualified, and case of the death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election.

Section 4. The amount of capital stock of such company shall be not less than two thousand nor more than ten millions of dollars.

Section 5. Dividends of the profits made by such company may be declared by the trustees or directors thereof every six months or oftener, as directors may elect, but no such dividend shall be made and paid to stockholders while such company is an insolvent condition, and if the directors of any such company shall knowingly declare and pay any dividend when the company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted while they shall respectively continue in office: provided, that if any of the directors shall object to the declaring of such dividend or to the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection in writing with the clerk of the company and with the circuit clerk of the county, they shall be exempt from the said liability. It shall be the duty of the trustees or directors of such company to keep correct accounts of their transactions, and have full statements of the condition of the affairs of such company made out and exhibited to the stockholders as often as once in each year, at least ten days before the day of election, and each stockholder may, at all reasonable times, have access to the books of the company, to examine the same, and under such rules and regulations as may be prescribed by the stockholders or directors.

Section 6. No note or obligation given by any stockholder, whether secured by deed of trust, mortgage, or otherwise, shall be considered as payment of any part of the capital stock, and no loan of money shall be made by any such company to any stockholder therein; and if such loan shall be made to a stockholder, the officers making it, or who shall assent thereto, shall be jointly and severally liable to the company for the amount of such loan and interest.

Section 7. No person holding any stock in such company as executor, administrator, guardian, or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholder accordingly. And the estate and funds in the hands of such executors, administrators, guardians, or trustees, shall be liable in like manner and to the same extent as the testator or intestate (or the ward or person interested in such trust fund) would have been if he had been living and competent to act and hold the same stock in his own name.

Section 8. Every such executor, administrator, guardian, or trustee shall represent the share of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder, and every person who shall pledge his stock as aforesaid may, nevertheless, represent the same at all such meetings, and may vote accordingly as a stockholder.

Section 9. The books and all records of the proceedings
91 of such company shall be kept open for the inspection of all persons interested.

Section 10. Any corporation or company now existing or which may hereafter be formed for any of the purposes contemplated by this chapter, may increase or diminish its capital stock by complying with the provisions of this chapter in any amount which may be deemed sufficient and proper for the purposes of corporations, and may also extend its business to any other objects authorized by this chapter, subject to the provisions and liabilities thereof; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital, and existing company heretofore formed under the general law, or any special act, may come under and avail itself of the privileges and provisions of this chapter by complying with the following provisions, and thereupon such company, its officers and stockholders, shall be subject to all the restrictions, duties, and liabilities of this chapter.

Section 17. Whenever any company shall desire to call a meeting of the stockholders for the purpose of availing itself of the privileges and provisions of this chapter, or for increasing or
92 diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, addressed to stockholders at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be extended or changed. And a vote of at least two-thirds of all the stock shall be necessary to an increase *of* diminution of the amount of its capital stock, or the extension or change of its business as aforesaid, or to enable a company to avail itself of the provisions of this chapter.

Section 12. If at any time and place specified in the notice provided for in the preceding section of this chapter, stockholders shall appear in person or by proxy, in number representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy; and if, on canvassing the votes, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending or exchanging its business as aforesaid, or for availing itself of the privileges and provisions of this chapter, a certificate of the pro-
93 ceedings showing a compliance with the provisions of this

chapter, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of debt and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed, and verified by affidavit of the chairman, and be countersigned by the secretary, and such certificate shall be acknowledged by the chairman and recorded as provided in the second section of this chapter, and when so recorded the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate, and the business extended or changed as aforesaid, and the company shall be entitled to the privileges and provisions and be subject to the liabilities of this chapter, as the case may be.

Section 13. No stockholder shall be personally liable for the payment of any debt contracted by any company formed under this chapter which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such company for any debt so contracted, unless the same shall be commenced within two years from the time he shall cease to be a stock-
94 holder in such company, nor until an execution shall have been returned unsatisfied in whole or in part.

Section 14. Any corporation formed under this chapter for the purpose of supplying any town, city, or village with gas or water, shall have full power to manufacture and sell and to furnish such quantities of gas or water as may be required in the city, town, or village where located for public or private buildings or for other purposes; such corporation shall have the power to lay conductors for conveying gas or water through the streets, lanes, alleys, and squares of any city, town, or village with the consent of the municipal authorities thereof, and under such reasonable regulations as said authorities may prescribe.

Section 15. The municipal authorities of any city, town, or village in which any gaslight or water company shall be organized under this chapter, are hereby authorized to contract with any such corporation for the lighting by gas or supplying with water the streets, lanes, alleys, squares, and public places in any such city, town, or village.

95 *Of Bridge Companies.*

Sections sixteen, seventeen, and eighteen of bridge companies.

Section. 19. Any corporation organized under the provisions of an act entitled "An act relative to incorporations for manufacturing and other purposes," approved February 15, 1864, shall have authority to carry on its operations in any part of this State.

Section 20. Whenever any company shall desire to call a meeting of its stockholders for the purpose of increasing the amount of its capital stock, and the directors thereof shall deem it advisable

for the best interests of said company to submit at the time and place of said meeting to the stockholders whether said stock so proposed to be increased shall be preferred, and the amount, number of shares, the price per share, in case an increase shall be determined, and also the character thereof, and in case additional notice to such effect shall have been given for the time as required by this act for the purpose of increasing said capital stock, then, if on canvassing the votes of the said stockholders, as required by this chapter, it shall appear that two-thirds of all the stock of said company shall have been cast for the increase of its stock, and that the said increased stock shall be preferred, the said stockholders shall also, at
96 said time and place, by like vote, determine the amount, the number of shares, and the price per share of said increase, and what rate of dividend, not exceeding ten per centum per annum, shall be paid on said preferred stock out of the net yearly income earned in any one current year before any dividend shall be made and paid on the stock of said company.

Section 21. The certificate required by section twelve of this act (in case said capital stock shall be increased in the manner and as is provided in the foregoing section) shall also contain a statement of the amount, and number of shares, the price per share of such increased stock, and also the rate of dividend to be paid on said increased preferred stock.

Section 22. Any two corporations or companies now existing under general or special laws, or which may be hereafter created, whose objects and business are in general of the same nature, may amalgamate, unite, and consolidate said corporations or companies, and form one consolidated company, holding and enjoying all the rights, privileges, powers, franchises, and property belonging to each, and under such corporate name as they may adopt or agree upon; such consolidation shall be made by agreement in
97 writing by or under the authority of the board of directors, and the assent of the owners of at least three-fifths of the capital stock of each of said corporations or companies, and a certificate of the fact of such consolidation, with the name of the consolidated company, shall be filed and recorded in the office of the Secretary of State; provided no such consolidation shall in any manner affect or impair the rights of any creditors of either of said corporations or companies; and provided further, that companies or corporations so consolidating shall accept the provisions of this act. Such agreement may provide for the number of directors of said corporations or companies, not exceeding thirteen.

Section 23. All the property and effects of such consolidated company shall be liable to be taxed as other property in this State, any provision in the charter of any of said companies to the contrary notwithstanding.

Section 24. The provisions of this act shall apply only to companies and corporations organized or created solely for manufacturing purposes.

Section 25. Whenever any company organized under this chapter for the purpose of erecting buildings to be used as a merchants' or mechanics' exchange, in any city having over thirty-five
98 thousand inhabitants, shall have selected for the location of its buildings any piece or parcel of land, not exceeding one block in extent in such city or town, and the municipal authorities thereof shall have approved such location, or the persons owning the major part in value of the real estate covered by said location shall have consented to sell the same to said company, then, and either of said events, and in case any owner of any real estate in said block, or of any interest therein, cannot agree with said company upon the proper compensation to be paid, or in case such owner is incapable of contracting, unknown, or non-resident of the said State, said property shall be taken by said company in the same manner as provided for in chapter sixty-six of the General Statutes of this State, relating to the appropriation and valuation of lands taken for telegraph, macadamized, graded, plank, or railroad purposes; provided that in assessing the value of the property to be condemned under the provisions of this act, or any act to which this is amendatory thereof, the benefits or advantages of the erection of such exchange buildings, which may accrue to the owner or owners of the property condemned or adjoining thereto, shall not be taken into consideration; but the value of the same shall be truly determined without regard to any such advantages or benefits,
99 whether real or supposed; and said municipal authorities may also by ordinance abolish any alley running through any such block of ground so selected as aforesaid, within the limits of their municipal corporation, and convey said company, on such terms as may be agreed on, the land on which said alley is laid out, if the land on both sides of said alley through its whole length is owned by said company.

AN ACT declaring Wagner's edition of the Statutes of Missouri *prima facie* evidence of the statute law, and providing for the purchase and distribution thereof by the State.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 5. The statutes aforesaid, and the acts, titles, and chapters as embraced therein, from chapter one to chapter hundred and forty-eight, both inclusive, shall be known as "Wagner's Statutes" of the State of Missouri; and the same shall be designated and cited as "Wagner's Statutes," adding the number of the chapter and section, when necessary, without reference to the year of the passage
100 thereof, and said statutes shall be *prima facie* evidence of the statute law of this State in all courts of justice and elsewhere, from and after the passage of this act.

Approved March 16, 1870.

AN ACT to amend chapter sixty-nine of the General Statutes relating to manufacturing and business companies.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 1. The said chapter sixty-nine of the General Statutes is hereby amended by adding the following:

Section 20. Any corporation now existing under the general law of this State, or which may hereafter be formed under the laws of this State for any other purposes contemplated by the chapter aforesaid, may, by a vote of its stockholders representing at least
101 two-thirds of its stock, at a meeting called for that purpose, and in compliance with sections eleven and twelve of the chapter of which this is amendatory, so far as this may apply, authorizing the holders of any bonds that may have been issued by said corporation to exchange the same for and convert the principal thereof into stock of said corporation, at such rates and upon such terms as may be agreed upon as aforesaid: Provided, such shares of stock shall not be valued at less than their market or actual value; and as said bonds shall thus be exchanged and converted, the stock issued for and in payment of such bonds shall, as the same shall be exchanged and converted, from part of the stock of said corporation (and) be entitled to all the benefits and privileges of any other stock of said corporation: Provided, however, that the amount of stock thus issued, together with the stock theretofore issued, shall not exceed in the aggregate the amount of stock which said corporation is authorized to issue by law.

Section 2. This act to take effect, and be in force, from and after its passage.

Approved March 22, 1873.

AN ACT to amend the sixth section of chapter sixty-nine of the General Statutes of the State of Missouri, being section six of article seven of chapter thirty-seven of Wagner's Statutes.

Be it enacted by the General Assembly of the State of Missouri as follows:

102 Section 1. Section six of chapter sixty-nine of the General Statutes, being section six of article seven of chapter thirty-seven of Wagner's Statutes of the State of Missouri, is amended so as to read as follows:

Section 6. No note or obligation given by any stockholder, whether secured by deed of trust, mortgage, or otherwise, shall be considered as payment of any part of the capital stock; and no loan of any money shall be made by any such company to any stockholder therein; and if such loan shall be made to a stockholder, the officers making it, or who shall assent thereto, shall be jointly and severally liable to the company for the amount of such loan and the interest; the provisions, however, of this section not to apply to "Mutual House-building Companies," or companies that build houses, or loan

money to their stockholders for the purpose of building houses, on the or pledge of their stock.

Approved February 7, 1873.

AN ACT to amend chapter sixty-nine of the General Statutes of Missouri relating to manufacturing and business companies, by adding new sections thereto, to be known and designated as sections twenty, twenty-one, and twenty-two.

Be it enacted by the General Assembly of the State of Missouri as follows:

Section 1. That chapter sixty-nine of the General Statutes
103 of Missouri relating to manufacturing and business companies, is hereby amended by adding the following new section thereto, so as to read as follows:

Section 20. The Circuit Court shall have jurisdiction over the directors, managers, trustees, and other officers of such corporations now existing or hereafter organized under and by virtue of chapter: First, to compel such directors, managers, trustees, and other officers to account for their official conduct in the management and disposition of the funds, property, and business committed to their charge. Second, to order, decree, and compel payment by them to the corporation which they represent, and to its creditors of all sums of money, and of the value of all property which they may have acquired to themselves, or transferred to others, or may have lost or wasted by any violation of their duties or abuse of their powers as such directors, managers, trustees, or other officers of such corporation. Third, to suspend any director, trustees, manager, or other officer from exercising his office whensoever it shall appear that (he) has abused his trust. Fourth, to remove any such director, trustee, or other officer upon proof or conviction of gross misconduct. Fifth, to direct, if necessary, new elections to be held by the body, or board, or stockholders duly authorized for that purpose, to supply any vacancy created by such removal, and at such election no person so removed or suspended shall be eligible as a director, trustee, or other officer of such company. Sixth, to restrain and prevent and alienation of property of the company by said directors, trustees, or other officers
in cases when it may be threatened, or there is good reason
104 to apprehend that it is intended to be made in fraud of the rights and interest of such company.

Section 21. In proceedings under this act the court may appoint one or more receivers to take charge of the business, property, and effects of such corporation, and to collect, sue for, and recover the debts and demands that may be due, and the property that may belong to such corporation, who shall in all respects be subject to the control of the court.

Section 22. The jurisdiction conferred by this act shall be exercised as in ordinary cases on petition filed by or at the instance of any director, trustee, or other officer of such corporation having a

general superintendence of its concerns, or at the instance of any creditor or stockholder of such corporation.

Approved April 12, 1877.

Certificate.

STATE OF COLORADO, }
Secretary's Office. }

I, N. H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a true and correct transcript of a certified copy of certain laws of the State of Missouri, which was filed in my office by the St. Louis Smelting and Refining Company on the 9th day of August, A. D. 1878, at nine o'clock A. M. of said day.

In testimony whereof, I have hereto set my hand and affixed the great seal of the State, at the city of Denver, this 12th day of September, A. D. 1879.

(Signed) N. H. MELDRUM,

{Seal of the State of Colorado.} *Secretary of State.*

Which was then and there admitted in evidence and read to the jury.

105 Plaintiffs, by its counsel, next offered in evidence a certified copy of the appointment by president and secretary of the St. Louis Smelting and Refining Company of an agent for Colorado, and establishing a place of business, upon whom and where process may be served, marked Exhibit "I," which is in words and figures following, to wit:

We, Edwin Harrison, president of the St. Louis Smelting and Refining Company, a corporation duly organized pursuant to the laws of the State of Missouri, and George H. Loker, Jr., secretary of said corporation, do hereby severally certify that Leadville, in Lake county, is the principal place in the State of Colorado where the business of said corporation shall be carried on in said State of Colorado; and that A. V. Weise, a resident of Leadville, State and county last aforesaid, is the authorized agent of said St. Louis Smelting and Refining Company, residing at Leadville aforesaid, the principal place of business of said corporation in said State of Colorado, upon whom process may be served.

In testimony whereof, witness our hands and the seal of said corporation this twenty-seventh day of August, A. D. 1878, at St. Louis, in the State of Missouri.

{Seal of the St. Louis Smelting and Refining Co., Missouri.}

EDWIN HARRISON, *Pres't.*
G. H. LOKER, JR., *Sec.*

106 STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Charles D. Greene, Jr., a commissioner for Colorado, resident at St. Louis, Missouri, hereby certify that on this twenty-seventh day of August, A. D. 1878, before me personally came George H. Loker, Jr., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as secretary, as party thereto, and acknowledged the said instrument to be the act and deed of the St. Louis Smelting and Refining Company, executed by him as such secretary, for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my hand and affixed my official seal, at St. Louis, in the State of Missouri, this twenty-seventh day of August, in the year one thousand eight hundred and seventy-eight.

C. D. GREENE, JR.,
Commissioner for Colorado at St. Louis, Missouri.

{Seal of C. D. Green, Jr., Commissioner of Deeds, at St. Louis city and county, Missouri.}

107 STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Charles D. Greene, Jr., a commissioner for Colorado, resident at St. Louis, Missouri, hereby certify that on this twelfth day of September, A. D. 1878, before me personally came Edwin Harrison, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as president, as party thereto, and acknowledged the said instrument to be the act and deed of the St. Louis Smelting and Refining Company, executed by him as such president, for the uses and purposes therein set forth.

In witness whereof, I have hereto set my hand and official seal, at St. Louis, Missouri, this twelfth day of September, A. D. 1878.

{Seal of C. D. Green, Jr., Commissioner of Deeds at St. Louis city and county, Missouri.}

C. D. GREENE, JR.,
Commissioner for Colorado at St. Louis, Missouri.

(Endorsed:) Filed in the office of the Secretary of State, Aug., 1878, at 9 o'clock A. M., and recorded in book , page . Wm. M. Clark, Secretary of State. B.

108 *Certificate.*

STATE OF COLORADO, } ss:
Secretary's Office, }

I, N. H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a true and correct transcript of the certificate of the principal place of business and designated agent in the State of Colorado of the St. Louis Smelting and Refining Company,

general superintendence of its concerns, or at the instance of any creditor or stockholder of such corporation.

Approved April 12, 1877.

Certificate.

STATE OF COLORADO, }
Secretary's Office. }

I, N. H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a true and correct transcript of a certified copy of certain laws of the State of Missouri, which was filed in my office by the St. Louis Smelting and Refining Company on the 9th day of August, A. D. 1878, at nine o'clock A. M. of said day.

In testimony whereof, I have hereto set my hand and affixed the great seal of the State, at the city of Denver, this 12th day of September, A. D. 1879.

(Signed) N. H. MELDRUM,
Secretary of State.

{Seal of the State of Colorado.}

Which was then and there admitted in evidence and read to the jury.

105 Plaintiffs, by its counsel, next offered in evidence a certified copy of the appointment by president and secretary of the St. Louis Smelting and Refining Company of an agent for Colorado, and establishing a place of business, upon whom and where process may be served, marked Exhibit "I," which is in words and figures following, to wit:

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In testimony whereof, witness our hands and the seal of said corporation this twenty-seventh day of August, A. D. 1878, at St. Louis, in the State of Missouri.

{Seal of the St. Louis Smelting and Refining Co., Missouri.}

EDWIN HARRISON, *Pres't.*
G. H. LOKER, JR., *Sec.*

106 STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Charles D. Greene, Jr., a commissioner for Colorado, resident at St. Louis, Missouri, hereby certify that on this twenty-seventh day of August, A. D. 1878, before me personally came George H. Loker, Jr., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as secretary, as party thereto, and acknowledged the said instrument to be the act and deed of the St. Louis Smelting and Refining Company, executed by him as such secretary, for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my hand and affixed my official seal, at St. Louis, in the State of Missouri, this twenty-seventh day of August, in the year one thousand eight hundred and seventy-eight.

{Seal of C. D. Green, Jr., Commissioner of Deeds, at St. Louis city and county, Missouri.}

C. D. GREENE, JR.,
Commissioner for Colorado at St. Louis, Missouri.

107 STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Charles D. Greene, Jr., a commissioner for Colorado, resident at St. Louis, Missouri, hereby certify that on this twelfth day of September, A. D. 1878, before me personally came Edwin Harrison, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as president, as party thereto, and acknowledged the said instrument to be the act and deed of the St. Louis Smelting and Refining Company, executed by him as such president, for the uses and purposes therein set forth.

{Seal of C. D. Green, Jr., Commissioner of Deeds at St. Louis city and county, Missouri.}

In witness whereof, I have hereto set my hand and official seal, at St. Louis, Missouri, this twelfth day of September, A. D. 1878.

C. D. GREENE, JR.,
Commissioner for Colorado at St. Louis, Missouri.

(Endorsed:) Filed in the office of the Secretary of State, Aug., 1878, at 9 o'clock A. M., and recorded in book , page . Wm. M. Clark, Secretary of State. B.

108 *Certificate.*

STATE OF COLORADO, } ss:
Secretary's Office, }

I, N. H. Meldrum, Secretary of State of the State of Colorado, do hereby certify that the foregoing is a true and correct transcript of the certificate of the principal place of business and designated agent in the State of Colorado of the St. Louis Smelting and Refining Company,

which was filed in my office, together with a correct copy of the filing endorsed upon the back thereof in said office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this twelfth day of September, A. D. 1879.

{ Great Seal of the State. }

(Signed) N. H. MELDRUM,
Secretary of State.

(Endorsed:) Certificate of the principal place of business and designated agent of Colorado of the St. Louis Smelting and Refining Company; certified copy; Weise, agent; filed Aug. 27, '78; Exhibit G of Pl'ffs; 11 | 25 | 79; J. W. Christy, sten'g'r.

109 Which was then and there admitted in evidence and read to the jury.

Plaintiffs then proposed to call Herman Huber, a witness in its behalf, to prove that the ground included in the said United States patent and the said deeds from Thomas Starr to Meyer, and Meyer to the said company plaintiff, was a part of the ground in dispute, but the defendants then and there, by their counsel, in open court admitted that the ground and lot in dispute in this case was a part of the land described in the said patent and deeds, and had the same admission entered of record, and the said witness Huber, for that reason, was not sworn.

EDWIN HARRISON, being called and sworn as a witness in behalf of the plaintiff, testified as follows:

Direct examination by Mr. Symes:

Q. Give us your full name, Mr. Harrison.

A. Edwin Harrison.

Q. Where do you reside?

A. St. Louis.

Q. Do you know the plaintiff in this case, the St. Louis Smelting and Refining Company?

A. I do.

Q. How long have you known the St. Louis Smelting and Refining Company?

A. About eight years.

Q. Since its organization?

A. Since its organization; yes, sir.

110 Q. Have you occupied any official position in connection with the St. Louis Smelting and Refining Company?

A. I have been its president from the date of its organization.

Q. Have you been actively engaged in the management of the concerns and affairs and business of that company?

A. I have.

Q. What business has that company been engaged in since its organization and pursued actively, if any?

A. The reduction of ores and refining of the metals.

Q. Where?

A. In St. Louis and in Colorado—Leadville.

Q. Here you may state what connection what is called the Harrison Reduction Works, in the town of Leadville, bears to the St. Louis Smelting Works.

A. The Harrison Reduction Works are a branch works of the St. Louis Smelting and Refining Company, of that company, built for the purpose of reducing ores—smelting.

Q. You may state whether you make bullion to be shipped to St. Louis to be refined there and all the metals separated.

A. It is made for that purpose.

Q. State, Mr. Harrison, without my calling attention to it, with reference to when the St. Louis Company purchased the site upon which the Harrison Reduction Works are situated and erected those works. In that connection proceed and give a rather methodical history of the transaction of that part of the company's business.

111 A. You refer now——

Mr. PATTERSON: We object, on the ground that it is not material in this case; at least, in the first instance, from the plaintiff.

COURT: Go on and show it, sir.

Q. You may proceed, Mr. Harrison.

A. In reference to its acquisition?

Q. Yes; first acquisition, and went first to buy that ground for the St. Louis Smelting Works, and what first took place by the company, either on your part or agent's, to your knowledge?

A. In the spring of 1877 Mr. Loker, Mr. Meyer, engaged with the smelting and refining company, and myself had been considering the propriety of examining the California Mining District, in this State, with the view of possibly erecting branch works. I went out in the spring of 1877.

Q. What month?

A. I arrived there on the 10th day of May, to the best of my recollection; visited some of the mines, the best ones, to satisfy myself that there was sufficient material there to justify the erection of works, and made a contract with Messrs. Wood and Stevens, owners of one of the principal mines, for a supply of ore; in fact, for the product of the mine. This ore was mostly low grade, and would not justify, at that time, shipment to St. Louis,

112 so that the contract involved the erection of the works there.

At the time that this contract was made it was understood and provided for in the contract itself, as I recollect it, that Messrs. Wood & Stevens, who owned some placer ground, which was convenient for our purpose, would sell or convey, for a nominal consideration, such ground as we required for our reduction works. I proceeded then, two or three days after that, to St. Louis, ordered machinery, iron work, and got up plans to build.

Q. What month was this?

A. This was early in May.

Q. 1877?

A. 1877. And got this work under way as quickly as possible, and shipped out. I went out again, arriving in Leadville or California Gulch, for there was no Leadville then, on or about the 10th day of July, 1877, and proceeded to break ground and get the works erected. I stayed there until about the 1st of October, leaving the works nearly completed.

Q. You may state whether the works commenced receiving and reducing silver ore when they started up.

A. On the 10th day of October, I believe.

Q. 1877?

A. 1877.

Q. Have you been continually engaged in running these works and smelting, extensively, silver ore at them ever since?

A. We have.

Q. Engaged in it now?

A. Engaged in it now.

113 Q. Now proceed to state, if you please, with reference to when you bargained for or bought this 30 acres of land and entered into possession of it, and what you bought it for, &c.

A. It was bargained for in May, 1877.

Q. Bargained for—contracted for?

A. Contracted for.

Q. For what purpose?

A. For the purpose of erecting reducing works and operating them.

Q. For any other purpose?

A. For no other purpose excepting the necessary purposes.

Q. You may explain the other purposes.

A. Of wood-yards, houses for employés, corrals for the teams, which we supposed would have to be provided for, especially in winter, and for such similar purposes.

Q. You may explain why you needed this amount of ground, and whether you bought it for any other purpose, expecting to use it for any other purposes except these Harrison Reduction Works.

A. The object in securing this ground was for that sole purpose, and none other, and I will explain that, so far as the operation of it is concerned, it was brought about by the fact that the works were on the edge of the part which we obtained from Messrs. Wood & Stevens. We therefore wanted more room in that direction. Then we got still another piece, which was shown on the map this

114 morning, a strip to the east, because there we were a little crowded also, and right there was where we needed room for our ore-sheds and coke.

Q. You may state further what you needed this ground for, with reference to how much ground it took for wood-yards, ore-sheds, corrals for your teams, etc.

A. Well, the amount of ground, some 26 acres, more or less, was what I considered we would be likely to require in the progress of

our business. We did not know to what extent we might increase our works, and have been seriously thinking of adding three to the two furnaces which we already have. Another object in having room beyond that which any one, I presume, under same circumstances, would have done, to have been sure he would have had room enough for his purposes, to keep the prospective town from getting too close to us. We wanted to avoid fire, among other things. That was one of the things, in addition to what I have already stated.

Q. I will ask you to state whether or not, at the time of purchasing this ground and went into possession of it, as you have stated, and commenced the erection of these reduction works, it was occupied by any other person whatever, except the placer mining done on it by any person whatever?

A. Except what?

115 Q. Nothing except the cabins on it occupied by the workmen?

A. No, there was not a building, to the best of my recollection, on any portion of it.

Q. Or any portion of it?

A. No.

Q. You may state whether or not the question was discussed among the agents and officers of the company as to the necessity of having this much ground.

A. Yes, sir; that matter was spoken of to some extent before I left St. Louis. It was understood that we could get the ground that we required; that there would be no trouble about that; that Messrs. Wood & Stevens, with whom we expected to contract if we erected the works at all, would provide us with the necessary ground.

Q. Was there at that time any town of Leadville?

A. None.

Q. No town of Leadville? Did the company or its officers, at that time, have any idea of buying that property with any view whatever, except to use it for smelting works, at the time they were thought of?

A. Not at all. The matter was not even canvassed at all, or even thought of.

Q. I will ask you whether or not, with reference to whether you refused to sell any portion of that ground for town purposes when the town commenced to grow up to you in its great and rapid

116 growth, whether you did not try to preserve it and keep them off of it as long as you could?

A. We used every means to prevent parties coming on that ground, and refused absolutely to sell or rent until a certain portion of it furthest from the works to the northeast became so much covered.

Q. By people?

A. By people coming in without our consent, and we concluded to get a recognition of title, and authorized, from our St. Louis office,

our agent to negotiate with parties on such terms as he might be able to do.

Q. You may state, Mr. Harrison, when it was that you first, on account of people overflowing a portion of it——

COURT: That is a matter perfectly immaterial. It does not matter whether they overflowed at all. I said, if they acquired it for legitimate purposes, they could sell it out to any one, and for any use they saw fit. The circumstance that somebody wanted it amounts to nothing, in a legal aspect, whatever.

Mr. SYMES: I accede to that—the only thing they claim is that he bought it——

COURT: We don't propose to go into this question. This is the only witness that will be examined. I would not allow it to be put into the record for some purposes, and what object you have
117 in so doing I don't understand, but you say you desire it put in there.

Mr. SYMES: Very well.

Mr. PATTERSON: If the Court will allow the record to show, at the conclusion of plaintiff's testimony, that the defendants offered evidence to prove the contrary that this ground was not necessary for the purposes of these works, I will not even cross-examine Mr. Harrison. I only want the record to go up in that way.

Mr. SYMES: We object to that statement.

COURT: You are bound to put it in the record, and we are not going to spend a day or two to exclude it. It seems to me there is one substantial question, and all the rest is only to go through the forms. It is utterly immaterial whether it is in the record or not; the Supreme Court will not look at it for a moment.

Mr. PATTERSON: With that understanding with reference to the matter, we will not even take up the time of the court in cross-examining Mr. Harrison.

The plaintiff here rested his case.

And thereupon the defendants gave in evidence on their behalf as follows—that is to say:

Defendants, by their counsel, here offered in evidence certified copy of the record of the proceedings in the Land Office upon which Thomas Starr obtained his patent, marked Exhibit "A" of defendants, which is in the words and figures following, to wit:

119 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *May* 29, 1879.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed copy of the application of Thomas Starr for patent to his placer mining claim, embraced in survey No. 255 in California mining district, Lake county, Colorado, and of the proof on which mineral entry No. 182 for said claim was made, March 6, 1879, in the United States Land Office at Fairplay, Colo-

rado, is a true and literal exemplification from the original papers now on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

{Seal of General Land Office.} (Signed) J. A. WILLIAMSON,
Commissioner of General Land Office.

120 LEADVILLE, COLORADO, *June* 5, 1878.

Mr. Thomas Starr, To the Lake County Reveille, Dr.
(Job work must be paid for on delivery.)

Mar. 23. To application for U. S. patent for placer lands in Lake county; 10 insertions..... $45.00

Rec'd payment, RICHARD S. ALLEN.

Mining Application No. 179.

UNITED STATES LAND OFFICE,
FAIRPLAY, COLORADO, *March* 18, 1878.

Notice is hereby given that Thomas Starr, whose post-office is Leadville, Lake county, Colorado, has made application for a patent for 164.61 acres of the Starr Placer Claim, situate in California mining district, in Lake county, Stateo f Colorado, and described in the official plat and filed-notes on file in this office, as following, viz.:

Beginning at corner No. 1, whence the U. S. locating monument No. 1 bears S. 89° 45′ E. 418 feet; thence from corner No. 1 S. 17° 50′ E. 1437 feet; thence N. 63° 30′ E. 515 feet; thence N. 68° 00′ E. 289.50 feet; thence N. 84° 28′ E. 179 feet; thence S. 89° 00′ E. 215 feet; thence S. 82° 19′ E. 277.50 feet; thence S. 77° 42′ E. 169.50 feet; thence S. 63° 30′ E. 332 feet; thence S. 62° 50′
121 E. 197 feet; thence N. 38° 20′—620 feet; thence S. 62° 30′ E. 17 feet; thence S. 42° 55′ E. 950 feet; thence S. 28° 30′ E. 150 feet; thence N. 49° 30′ E. 598 feet; thence N. 49° 05′ W. 1,088 feet; thence N. 26° 24′ E. 486 feet; thence N. 64° 00′ W. 200 feet; thence N. 26° 00′ E. 915 feet; thence N. 75° 18′ W. 1,027 feet; thence N. 28° 20′ W. 370.40 feet; thence N. 0° 03′ E. 607 feet; thence N. 14° 17′ W. 136.94 feet; thence N. 62° 00′ E. 333.50 feet; thence N. 68° 30′ E. 500 feet; thence N. 75° 35′ E. 500 feet; thence S. 69° 51′ E. 500 feet; thence S. 70° 00′ E. 500 feet; thence N. 39° 30′ W. 500 feet; thence N. 70° 00′ W. 500 feet; thence N. 69° 51′ W. 500 feet; thence S. 75° 35′ W. 500 feet; thence S. 68° 30′ W. 500 feet; thence S. 62° 00′ W. 114 feet; thence N. 14° 17′ W. 933 feet; thence N. 31° 55′ W. 328.50 feet; thence N. 14° 14′ W. 240.80 feet; thence N. 2° 00′ E. 424 feet; thence N. 2° 35′ E. 442 feet; thence N. 10° 50′ E. 560.70 feet; thence N. 10° 37′ E. 841 feet; thence N. 32° 07′ E. 482.20 feet; thence N. 49° 13′ E. 155.50 feet;

thence N. 78° 42′ E. 142 feet; thence N. 55° 00′ E. 141 feet; thence N. 59° 42′ — 100 feet; thence S. 70° 08′ E. 249.50 feet; thence N. 50° 00′ E. 166.50 feet; thence S. 80° 11′ E. 180 feet; thence S. 74° 15′ E. 97 feet; thence S. 40° 28′ E. 125 feet; thence N. 30° 56′ E. 50 feet; thence N. 43° 32′ W. 150 feet; thence N. 74° 15′ W. 97 feet; thence N. 80° 10′ W. 180 feet; thence S. 50° 00′ W. 166.50 feet; thence N. 70° 08′ W. 249.50 feet; thence S. 72° 54′ W. 28.50 feet; thence S. 57° 00′ W. 126 feet; thence S. 44° 00′ W. 69 feet; thence S. 65° 10′ W. 75 feet; thence S. 89° 52′ W. 81 feet; thence S. 62° 50′ W. 70 feet; thence S. 35° 24′ W. 54.50 feet; thence
122 S. 56° 20′ W. 104 feet; thence S. 39° 00′ W. 192 feet; thence S. 27° 36′ W. 292.50 feet; thence S. 20° 40′ W. 157.40 feet; thence S. 10° 22′ W. 245 feet; thence S. 7° 15′ W. 445.50 feet; thence S. 15° 15′ W. 256.50; thence S. 8° 26′ W. 303 feet; thence S. 3° 06′ W. *W.* 375 feet; thence S. 7° 40′ E. 70.50 feet; thence S. 4° 10′ W. 297 feet; thence S. 1° 10′ E. 157 feet; thence S. 15° 20′ E. 222.50 feet; thence S. 30° 10′ E. 347.50 feet; thence S. 13° 00′ E. 150 feet; thence S. 13° 10′ E. 580 feet; thence S. 1° 20′ E. 600 feet; thence S. 29° 40′ E. 330.50 feet; thence S. 73° 40′ W. 1,411 feet; thence S. 16° 20′ E. 653 feet; thence S. 88° 05′ W. 1,428.50 feet to corner No. 1, containing 164.61 acres, exclusive of .39 of acre of survey No. 158. Said location being recorded in vol. 10, pages 122 and 254 of the records of Lake county. Adjoining claimants: A. B. Wood *et al.*, now Stevens and Leiter, on the N. west; and Oro Mining, Ditch, and Fluming Co.'s claims, survey No. 258, on the south.

JNO. J. HENRY,
Register.
WM. K. BURCHINELL,
Receiver.

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123 OFFICE OF LAKE COUNTY REVEILLE,
R. S. ALLEN, PROPRIETOR,
LEADVILLE, COLORADO, *June* 5, 1878.

I, Richard S. Allen, do hereby certify that I am the publisher and proprietor of the Lake County Reveille, published at Leadville, in the county of Lake and State of Colorado, and that the annexed notice was published for ten consecutive weeks and eleven times in said newspaper, the first publication being on 23d day of March, A. D. 1878, and the last publication on the 1st day of June, A. D. 1878.

RICHARD S. ALLEN.

STATE OF COLORADO, }
County of Lake, }

Subscribed and sworn to before me this fifth day of June, A. D. 1878.

CHAS. CAVENDER,
Notary Public.

{ Chas. Cavender, Notary Public, Lake county, Colorado. }

(Endorsed:) Proof of Publication; case of the Starr Placer Claim,

sur. No. 255, dist. No. 3, in Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

124 *Proof of Plat and Notice Remaining Posted in U. S. Land Office 60 days.*

I, John J. Henry, register of the United States land office at Fairplay, Colorado, do hereby certify that on the 18th day of March, 1878, the official plat representing the Starr Placer Claim, situated in California mining district, in Lake county, Colorado, and also a notice by the register of said United States land office that Thomas Starr had made application for patent therefor, were posted in a conspicuous place in said United States land office where they could be easily seen and examined, and that said plat and notice remained so posted in said land office continuously from said date of posting until the 30th day of May, 1878, being for the full period of the same, (sixty days,) during which the notice by said register that said above-named applicant had made application for patent for said mining claim was published in the Lake County Reveille, the newspaper designated by the register as being published nearest to said claim,
and a printed copy of said notice so posted in said United
125 States land office is hereto attached and made a part of this certificate. And I further certify that no adverse claim against said Starr Placer Claim has been or was filed in said United States land office during said sixty days' publication of said notice, nor has any such adverse claim been filed since the expiration of said sixty days' publication.

Given under my hand, in the United States Land Office at Fairplay, Colorado, on this 18th day of June, A. D. 1878.

JNO. J. HENRY.

(Endorsed:) Proof of plat and notice remaining posted in United States Land Office 60 days; case of the Starr Placer Claim; survey No. 255, dist. No. 3, in Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

WILLIAM S. BALLOW,
Notary Public,
Lake County, Colorado.

{ William S. Ballow, Notary Public, Lake Co., Colorado. }

STATE OF COLORADO, *Lake County,* } *ss:*

I, Joseph H. Wells, clerk of the District Court of the Fourth
126 Judicial District held within and for the said county of Lake, the same being a court of record having a clerk and seal, do hereby certify that William S. Ballow is a notary public within and for said county and State, duly appointed by the Governor of Col-

orado, commissioned and sworn and duly qualified to do and perform all and every act and acts which notaries public are authorized to do and perform under and by virtue of the laws of the State of Colorado, among which is the power to take the proofs and acknowledgments of deeds and administer oath; that the term of office of the said William S. Ballow as such notary public began on the 14th day of May, A. D. 1878, and ends on the 14th day of May, 1882; that I am acquainted with the handwriting of the said William S. Ballow and his official seal, and that the signature above written and official seal above affixed, purporting to be his official seal and signature, were written and made by him, and are his original and genuine official signature and seal.

In testimony whereof, witness my hand and the seal of said court at Granite, the county-seat of said county of Lake, this 14th day of December, A. D. 1878.

JOS. H. WELLS,
Dist. Clerk,
Lake Co., Colo.

{ District Court 4th Judicial [SEAL] District, Lake county, Colorado. }

127 *Application for Patent.*

Case of the Star Placer Claim, situate in California Mining District, in Lake county, Colorado.

To the Register and Receiver of the United States Land Office at Fairplay, Colorado:

Thomas Starr, being duly sworn, on oath deposes and says that he is a citizen of the United States over the age of twenty-one years; that in virtue of a compliance with the mining rules, regulations, customs, and laws by himself, he, the said Thomas Starr, applicant for patent herein, has become the owner of, and is in the actual, quiet, and undisturbed possession of, and is entitled to the possession of one hundred and sixty-four acres and sixty-one one-hundredths (164.61) of an acre of placer mining land, situate in California Mining District, in Lake county and State of Colorado, and being more particularly set forth and described in the official field-notes of the survey thereof hereto attached, dated February 8th, 1878, said survey being designated by the surveyor general of Colorado as survey No. 255, district No. 3.

128 Deponent further states that the facts relative to the right of possession of himself to said placer mining claim so surveyed are substantially as follows, to wit:

This affiant is the owner of said claim by purchase and by location.

This affiant and his grantors have dug and constructed upon said mining claim a placer mining ditch, which is ten thousand and three hundred (10,300) feet in length by eight feet wide by eighteen inches deep, and is used for conveying water to the placer mines upon said claim; said ditch was dug in the years 1860 & 61.

This affiant or ..... his grantors have worked and mined at placer

mining upon said mining claim during the placer mining season of each and every year since the year 1861, and have excavated and removed the surface earth and gravel to the depth of six feet to fifteen feet from and over a space of about twenty acres in the prosecution of said placer mining work. This affiant has erected and built a dwelling-house 16 feet x 30 feet and two stories high, also a barn 18 feet x 20 ft., both upon said mining claim. The
129 value of the labor done and improvements made upon said mining claim by the claimant and by the grantors of the claimant is more than twenty thousand dollars.

The abstract of title herewith filed is not fully complete and perfect, but it contains all there is to be found aforesaid in the records of Lake county, and if any portions of said mining claim have been recorded in the local district records in years past, then such portions are not described sufficiently definite to give information as to the location of the ground therein recorded.

There has been no litigation or opposition to the possession of this affiant or his grantors in and to said mining claim, except what has long since ceased, and there has been no litigation whatever affecting the possession of or title to said claim or any part thereof for a period equal to the time fixed by the statute of limitations for mining claims in the State of Colorado, other than that which has finally been decided in favor of this affiant or his grantors. In consideration of which facts, and in conformity with the provisions of the mining laws, application is hereby made for and in behalf of
130 this affiant for a patent from the Government of the United States for $164\frac{61}{100}$ acres of the Starr Placer Claim as officially surveyed and platted.

This affiant is well acquainted with the said Starr Placer Claim, and for many years has resided near to, and for *several* years has *resided upon* said mining premises, and that no known vein or veins of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, exist on said mining claim, or on any part thereof, so far as he knows, and he verily believes that none exist thereon.

THOMAS STARR.

Subscribed and sworn to by Thomas Starr before me, in my office, in the town of Leadville, in the county of Lake, in the Fairplay Land District, in the State of Colorado, on this fifteenth day of March, A. D. 1878; and I hereby certify that I consider the above deponent a credible and reliable person, and that the foregoing affidavit, to which was attached the field-notes of survey of the Starr Placer Claim, survey No. 255, district No. 3, was read and examined by him before his signature was affixed thereto and the oath made by him.

131 C. E. ANDERSON,

Notary Public, Lake Co., Colo.

{ Chas. E. Anderson, Notary Public, Lake Co., Colorado. }

William Bernes and William H. Maine, each being first duly

sworn, deposes and says upon his oath that he has read and examined the herein foregoing affidavit of Thomas Starr; that he is well acquainted with the Starr Placer Claim described in said affidavit; that the statements made in said affidavit relative to the right of possession and occupancy of Thomas Starr thereto, and relative to the working of and improvements upon said mining claim, are true; and this affiant has no interest whatever in said mining claim. Affiant further says that he is a citizen of the United States over the age of twenty-one years.

WILLIAM BERNES.
WILLIAM H. MAINE.

Subscribed and sworn to by William Bernes and William H. Maine before me, in my office, in the town of Leadville, in the county of Lake, in the Fairplay Land District, in the State of Colorado, on this fifteenth day of March, A. D. 1878.

C. E. ANDERSON,
Notary Public, Lake Co., Colo.

132 *Survey No. 255, District No. 3.*

Transcript of field-notes of the survey of the claim of Thomas Starr, upon the placer in California Mining District, Lake county, Colorado. Surveyed by C. C. Baldwin, U. S. deputy surveyor.

Survey begun October 1st, 1877, and completed October 5th, 1877.

FEET.	
	Beginning at cor. No. 1, a granite rock 14x10x5, planted 7 in. deep, marked 1–255, which bears from U. S. locating monument No. 1, established by J. S. Titcomb, a deputy U. S. mineral surveyor, N. 89° 45′ W. 418 feet.
	Variation in all courses 15° E. Thence S. 17° 50′ E.
357	to road, course S. 74° 30′ W.
1040	" " " S. 78° W.
1170	" bank of placer works.
1285	" creek 3 ft. wide, course S. 75° W.
1400	" bank of placer works.
1437	" cor. No. 2, a granite rock 16x12x3½, planted 8 in. deep, marked 11–255. Thence N. 63° 30′ E.
515	to cor. No. 3, a granite rock 16x8x8, planted 8 in. deep, marked 111–255 same as cor. 3, sur. No. 158. 133 Thence N. 68° E.
289.5	to cor. No. 4, a granite rock 19x10x4, planted 10 in. deep, marked IV–255, same as cor. 4, sur. No. 158.
	Thence N. 84° 28′ E.
179	to cor. No. 5, a granite rock 18x10x6, planted 10 in. deep, marked V–255.
	Thence S. 89° E.
215	to cor. No. 6, a granite rock 18x10x5, planted 10 in. deep, marked VI–255.
	Thence S. 82° 19′ E.

FEET.

277.5 to cor. No. 7, a granite rock 18x14x3½, planted 12 in. deep, marked VII–255.
Thence S. 77° 42′ E.
11.5 to intersection with 6th course, sur. No. 158.
169.5 to cor. No. 8, a granite rock 18x10x6, planted 10 in. deep, marked VIII–255.
Thence S. 63° 30′ E.
332 to cor. 9, a granite rock 16x8x6, planted 10 in. deep, marked IX–255.
Thence S. 62° 50′ E.
197 to cor. No. 10, granite rock 16x14x6, planted 8 in. deep, marked X–255.
Thence N. 38° 20′ E.
3 to bank of placer works.
103 to creek, course N. 62° W.
450 to bank of placer works.
544 to road, course N. 63° W. 134
620 to cor. No. 11, a granite rock 18x9x6, planted 8 in. deep, marked XI–255.
Thence S. 62° 30′ E.
17 to cor. No. 12, granite rock 16x9x8, planted 8 in. deep, marked XII–255.
Thence S. 42° 55′ E.
318 to Oro ditch, course from N., S. 10° 30′ E., to the S., S. 26° W.
347 across ditch.
774 to ditch, course S. 35° E.
925 to bank of ditch, course S. 27° E.
950 to cor. No. 13, a porphry rock 20x14x6, planted 10 in. deep on S. side of ditch, marked XIII–255.
Thence S. 28° 30′ E.
150 to cor. No. 14, a granite rock 15x7x5, planted 8 in. deep, marked XIV–255.
Thence N. 49° 30′ E.
6 across ditch, course S. 29° E.
96 to road, course N. 29° W.
598 to cor. No. 15, a granite rock 15x10x8, planted 8 in. deep, marked XV–255.
Thence N. 49° 5′ W.
920 to ditch, course southeasterly.
1088 to cor. No. 16, a sandstone 24x16x6, planted 12 in. deep, marked XVI–255.
Thence N. 26° 24′ E. 135
62 to ditch, course southeasterly.
486 to cor. No. 17, granite rock 14x10x3½, planted 8 in. deep, marked XVII–255, from which Mt. Elbert bears S. 45° 20′ W; High Mt. Peak (name unknown) bears S. 5° 55′ W.; Massive Mt. bears S. 71° 27′ W.
Thence N. 64° W.

FEET.

200 to cor. No. 18, a porphry rock, 21x12x3, planted 8 in. deep, marked XVIII–255. Thence N. H. & E.

915 to cor. No. 19, a granite rock 20x8x4, planted 10 in. deep, marked XIX–255, from which a blazed pine 12 in. in dia., marked XIX–255, bears S. 14° 28′ E. 32 ft., a blazed pine 16 in. dia., marked XIX–255, bears N. 57° 25′ E. 17.5 ft. Thence N. 75° 18′ W.

911 to ditch, course S. 25° E.

1027 to cor. No. 20, a granite stone 20x8x4, planted 14 in. deep, marked XX–255. Thence N. 28° 20′ W.

370.4 to cor. No. 21, a granite rock 14x10x8, planted 8 in. deep, marked XXI–255. Thence N. 0° 3′ E.

585 to Stray Horse Creek, course S. 60° W.

607 to cor. No. 22, a granite rock 14x9x6, planted 6 in. deep, marked XXII–255. Thence N. 14° 17′ W.

57 to road, course S. 58° 30′ W. 136

136.94 to cor. No. 23, a granite rock 14x9x7, planted 8 in. deep, marked XXIII–255. Thence N. 62° E.

180 to road, course S. 58° W.

333.5 to cor. No. 24, a granite rock 18x8x4, planted 10 in. deep, marked XXIV–255. Thence N. 68° 30′ E.

25 to Stray Horse Creek, course S. 60° W.

500 to cor. No. 25, a granite rock 18x12x10, planted 10 in. deep, marked 25–255. Thence N. 75° 35′ E.

500 to cor. No. 26, a granite stone 18x9x7, planted 10 in. deep, marked 26–255, from which a pine 18 in. dia., marked 26–255, bears S. 25° E. 19 ft., a pine 10 in. dia., marked 26–255, bears S. 59° 45′ W. 15 feet. Thence S. 69° 51′ E.

500 to cor. No. 27, a granite rock 18x9x4, planted 9 in. deep, marked 27–255. Thence S. 70° E.

500 to cor. No. 28, a granite rock 16x8x6, planted 10 in. deep, marked 28.255. Thence N. 39° 30′ W.

500 to cor. No. 29, a granite rock 15x7x6, planted 8 in. deep, marked 29–255, from which a pine 12 in. dia., marked 29–255, bears N. 82° E. 65 ft., a pine 16 137
in. dia., marked 29–255, bears N. 46° 50′ E. 61 ft.
Thence N. 70° W.

10 to Stray Horse Creek, course S. 50° W.

50 " " " " N. 60° W.

90 " " " " N. 80° W.

260 " road, course N. 80° W.

500 " cor. No. 30, a granite rock 21x10x5, planted 11 in. deep, marked 30–255.
Thence N. 69° 51′ W.

500 to cor. No. 31, a granite rock 18x12x3½, planted 10 in. deep, marked 31–255.
Thence S. 75° 35′ W.

FEET.	
500	to cor. No. 32, a granite stone 18x10x3, planted 7 in. deep with mound of stones, marked 32–255.
	Thence S. 68° 30′ W.
500	to cor. No. 33, a granite rock 21x7x3, planted 10 in. deep, marked 33–255.
	Thence S. 62° W.
114	to cor. No. 34, a granite rock 18x10x8, planted 10 in. deep, marked 34–255.
	Thence N. 14° 17′ W.
89.33	to cor. No. 35, a granite rock 21x8x7, planted 10 in. deep with mound of stones, and marked 35–255, from which a mound of stones on Mt. Elbert bears S. 42° 58′ W., a high mountain peak (name unknown) bears S. 40° 51′ W. 138
	Thence N. 31° 55′ W.
328.5	to cor. No. 36, a granite rock 18x6x6, planted 10 in. deep, marked 36–255.
	Thence N. 14° 14′ W.
240.8	to cor. No. 37, a granite rock 16x8x6, planted 10 in. deep, marked 37–255.
	Thence N. 2° E.
424	to cor. No. 38, a granite rock 14x10x3, planted 8 in. deep, marked 38–255.
	Thence N. 2° 35′ E.
442	to cor. No. 39, a granite rock 14x9x4, planted 7 in. deep, marked 39–255.
	Thence N. 10° 50′ E.
560.7	to cor. No. 40, a granite rock 14x8x5, planted 7 in. deep, marked 40–255.
	Thence N. 10° 37′ E.
841	to cor. No. 41, a granite rock 15x8x4, planted 8 in. deep, marked 41–255.
	Thence N. 32° 7′ E.
482.2	to cor. No. 42, a granite rock 18x10x3, planted 10 in. deep, marked 42–255.
	Thence N. 49° 13′ E.
155.5	to cor. No. 43, a granite rock 17x10x3, planted 10 in. deep, marked 43–255.
	Thence N. 78° 42′ E.
142	to cor. No. 44, a granite rock 18x8x4, planted 9 in. deep, marked 44–255. 139
	Thence N. 55° E.
141	to cor. No. 45, a granite rock 20x8x8, planted 12 in. deep, marked 45–255, from which a blazed pine 15 in. dia., marked 45–255, bears S. 33° W. 53.5 feet; a blazed pine 16 in. dia., marked 45–255, bears S. 38° 46′ E. 24 feet.
	Thence N. 59° 42′ E.

FEET.

100 to cor. No. 46, a granite rock 16x9x4, planted 10 in. deep, marked 46–255.

Thence S. 70° 8′ E.

249.5 to cor. No. 47, a granite rock 16x8x3, planted 8 in. deep, marked 47–255.

Thence N. 50° E.

166.5 to cor. No. 48, a granite rock 22x9x8, planted 10 in. deep with mound of stone, and marked 48–255.

Thence S. 80° 10′ E.

180 to cor. No. 49, a granite rock 18x10x4, planted 10 in. deep, marked 49–255.

Thence S. 74° 15′ E.

97 to cor. No. 50, a granite rock 18x9x9, planted 10 in. deep, marked 50–255.

Thence S. 40° 28′ E.

125 to cor. No. 51, a granite rock 18x10x9, planted 10 in. deep, marked 51–255.

Thence N. 30° 56′ E. 140

20 to creek, course N. 40° W.

49 across creek

50 to cor. No. 52, a granite rock 19x10x4 in mound of stones, marked 52–255, from which high mt. peak (name unknown) bears N. 53° 51′ W.; a high mt. peak (name unknown) bears N. 75° 8′ W.

Thence N. 43° 32′ W.

150 to cor. No. 53, a granite rock 17x9x7, in mound of stone, and marked 53–255.

Thence N. 74° 15′ W.

97 to cor. No. 54, a granite rock 18x10x5, planted 10 in. deep, marked 54–255.

Thence N. 80° 10′ W.

180 to cor. No. 55, a granite rock 14x10x6, planted 8 in. deep, marked 55–255.

Thence S. 50° W.

166.5 to cor. No. 56, a granite rock 16x8x5, planted 10 in. deep, marked 56–255.

Thence N. 70° 8′ W.

249.5 to cor. No. 57, a granite rock 15x8x7, planted 8 in. deep, marked 57–255.

Thence S. 72° 54′ W.

28.5 to cor. No. 58, a granite rock 14x10x4, planted 9 in. deep, marked 58–255.

Thence S. 57° W. 141

126 to cor. No. 59, a granite rock 16x9x7, planted 7 in. deep, marked 59–255.

Thence S. 44° W.

69 to cor. No. 60, a granite rock 14x10x4, planted 7 in. deep, marked 60–255.

Thence S. 65° 10′ W.

FEET.

75 to cor. No. 61, a granite rock 15x9x6, planted 6 in. deep with mound of stone, and marked 61–255.

Thence S. 89° 52′ W.

81 to cor. No. 62, a granite rock 15x8x6, planted 10 in. deep, marked 62–255.

Thence S. 62° 50′ W.

70 to cor. No. 63, a granite rock 14x10x8, planted 8 in. deep, marked 63–255.

Thence S. 35° 24′ W.

54.5 to cor. No. 64, a granite rock 14x8x7, planted 7 in. deep, marked 64–255.

Thence S. 56° 20′ W.

104 to cor. No. 65, a granite rock 15x10x3, planted 9 in. deep, marked 65–255.

Thence S. 39° W.

192 to cor. No. 66, a granite rock 17x9x4, planted 8 in. deep with mound of stone, and marked 66–255.

Thence S. 27° 36′ W.

292.5 to cor. No. 67, a granite rock 17x9x6, planted 10 in. 142 deep, marked 67–255.

Thence S. 20° 40′ W.

157.4 to cor. No. 68, a granite rock 16x7x4, planted 8 in. deep, marked 68–255.

Thence S. 10° 22′ W.

245 to cor. No. 69, a granite rock 16x8x6, planted 9 in. deep, marked 69–255.

Thence S. 7° 15′ W.

445.5 to cor. No. 70, a granite rock 20x9x7, planted 11 in. deep, marked 70–255.

Thence S. 15° 50′ W.

256.5 to cor. No. 71, a granite rock 14x10x7, planted 8 in. deep, marked 71–255.

Thence S. 8° 26′ W.

303 to cor. No. 72, a granite rock 20x7x5, planted 10 in. deep, mark 72–255.

Thence S. 3° 6′ W.

375 to cor. No. 73, a granite rock 14x5x5, planted 8 in. deep, marked 73–255.

Thence S. 7° 40′ E.

70.5 to cor. No. 74, a granite rock 13x8x6, planted 7 in. deep, marked 74–255.

Thence S. 4° 10′ W.

297 to cor. No. 75, a granite rock 14x8x6, planted 8. in deep, marked 75–255.

Thence S. 1° 10′ E.

157 to cor. No. 76, a granite rock 13x6x4, planted 8 in. 143 deep, marked 76–255.

Thence S. 15° 20′ E.

FEET.

222.5 to cor. No. 77, a granite rock 13x6x6, planted 8 in. deep, marked 77–255.
Thence S. 30° 10′ E.
347.5 to cor. No. 78, a granite rock 15x10x4, planted 8 in. deep, marked 78–255.
Thence S. 13° E.
150 to cor. No. 79, a granite rock 16x10x4, planted 6 in. deep with mound of stones, and marked 79–255.
Thence S. 13° 10′ E.
550 to road, course S. 58° 30′ W.
580 to cor. No. 80, a granite rock 15x10x6, planted 8 in. deep, marked 80–255.
Thence S. 10° 20′ E.
600 to cor. No. 81, a granite rock 14x8x6, planted 9 in. deep, marked 81–255.
Thence S. 29° 40′ E.
330.5 to cor. No. 82, a granite rock 16x10x5 in mound of stones, and marked 82–255.
Thence S. 73° 40′ W.
775 to road, course S. 10° E.
867 to Oro Co.'s ditch, course S. 10° E.
880 across ditch.
1411 to cor. No. 83, a granite rock 14x9x6, planted 8 in. deep, marked 83–255.
Thence S. 16° 20′ E.
653 to cor. No. 84, a granite rock 18x7x7, planted 12 in. deep, and marked 84–255. 144
Thence S. 88° 5′ W.
1428.5 to cor. No. 1, the place of beginning.

Containing 164.61 acres, exclusive of the portion of sur. 158, as indicated in plat, consisting of .39 acres.

The improvements consist of placer or gulch mining and a ditch known as the Starr ditch, a house 16x30 feet, a stable 18x20 feet, which were placed on the ground or claim *by* the *claimant*, and the value of the labor and improvements is not less than *five hundred dollars*, and probably amounts to ten thousand dollars.

145 Adjoining claimants: Southwest, survey 158, the Oro Mining & Fluming Co.'s Placer Claim; west, A. B. Woods Co.'s Placer Claims.

List of the names of individuals employed to assist in running, measuring, and marking the lines and corners described in the foregoing field-notes of the survey of the claim of Thomas Starr, upon the placer in California Mining District, Lake county, Colorado: Thos. E. Barrett, Charles S. Bradt.

We hereby certify that we assisted C. C. Baldwin, U. S. deputy mineral surveyor, in surveying the exterior boundaries and marking

the corners of the claim of Thomas Starr upon the placer in California Mining District, Lake county, Colorado; and that said survey has been in all respects, to the best our of knowledge and belief, well and faithfully surveyed, and the boundary monuments planted according to the instructions furnished by the surveyor-general.

CHARLES S. BRADT.
THOMAS E. BARRETT.

Subscribed and sworn to by the above-named persons, before me, this 8th day of October, 1877.

[SEAL.] A. S. WESTON,
Notary Public.

146 I, C. C. Baldwin, deputy U. S. mineral surveyor, do solemnly swear that in pursuance of an order from William L. Campbell, surveyor-general of the public lands in the State of Colorado, bearing date the fourth of September, 1877, and in strict conformity to the laws of the United States and instructions furnished by said surveyor-general, I have faithfully surveyed the claim of Thomas E. Starr upon the placer in California Mining District, Lake county, Colorado; and do further solemnly swear that the foregoing are the true and original field-notes of such survey.

C. C. BALDWIN,
U. S. Deputy Mineral Surveyor.

Subscribed by said C. C. Baldwin, U. S. deputy mineral surveyor, and sworn to before me this 8th day of October, 1877.

[SEAL.] A. S. WESTON,
Notary Public.

I certify that the foregoing transcript of the field-notes of the survey of the mining claim of Thomas Starr, situate in California Mining District, county of Lake and State of Colorado, has been correctly copied from the original notes of said survey on file
147 in this office; that said field-notes furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made herein to natural objects and permanent monuments as will perpetutate and fix the locus thereof.

I further certify that the value of the labor and improvements upon the said mining claim, as shown by the report of the deputy surveyor, placed thereon by said claimant and his grantors, is not less than five hundred dollars, and that said improvements consist of ditch, gulch, and placer workings.

I further certify that the plat thereof filed in the U. S. Land Office at Fairplay is correct, and in conformity with the foregoing field-notes.

WILLIAM L. CAMPBELL,
U. S. Surveyor General of Colorado.

U. S. SURVEYOR GENERAL'S OFFICE,
DENVER, COLORADO, February 8th, 1878.

(Endorsed:) Application for patent and field-notes; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of March, 1878; John J. Henry, register; Fred. C. Morse, Fairplay, Colorado, attorney for the applicant.

148 *Proof of Sums Paid.*

STATE OF COLORADO, }
County of Lake, } *ss:*

Thomas Starr, having been first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he is the applicant for a patent to $164\frac{61}{100}$ acres of placer land, sur. No. 255, dist. No. 3, in California Mining District, in Lake county, Colorado; that in prosecution of such application he has paid the following sums of money, viz.:

For office work in Surveyor General's Office.....	$25 00
To C. C. Baldwin, deputy surveyor for surveying and platting.....	234 00
To register and receiver for filing in local land office	10 00
To R. S. Allen, publisher of Lake county Reveille, for publication of notice of application	45 00
To advertising the notice of hearing.....	
To register and receiver the applicant's fees in the hearing case.....	80 00
	$394 00

THOMAS STARR.

Subscribed and sworn to before me this 20th day of December, 1878.

[SEAL.] D. HOUGHTON, *Notary Public.*

149 (Endorsed:) Proof of sums paid; U. S. land office, Colorado; filed and approved this of , 187 ; ——— ———, register; ——— ———, receiver.

Law of Limitations.

"Be it enacted by the Council and House of Representatives of Colorado Territory:

That every person in the peaceable and undisputed possession of lands or tenements, including mining claims, under claim and color of title made in good faith, including pre-emptions made in accordance with the laws of Colorado Territory, or any mining district wherein such property may be situate, who shall for five successive years hereafter continue in such possession, and shall also during

said time pay all taxes legally assessed on such lands, tenements, or mining claims, shall be adjudged to be the legal owners of said lands, tenements, or mining claims to the extent and according to the purport of his or her proper title or pre-emption.

All persons holding under such possession by purchase, de-
150 vise, or descent before said five years shall have expired, and who shall continue such possession, and continue to pay the taxes as aforesaid, so as to complete the possession of and payment of taxes for the term aforesaid, shall be entitled to the benefit of this section."

Approved February 13th, 1874.

No other section in this act modifies or changes the intent or meaning or effect of the above section.

FRED. C. MORSE,
Attorney for the Applicant.

(Endorsed:) Law of limitations; case of the Starr Placer Claim, survey No. 250, dist. No. 3, in Lake county, Colorado; claimed by Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

Proof that no Known Veins Exist.

Jason B. Hall and James D. Denning, each for himself, being first duly sworn, on oath deposes and says that he is a citizen of the United States over the age of twenty-one years, and that he is well acquainted with the property known as the Starr Placer Claim
151 situate in California mining district, in Lake county, Colorado, owned and worked by Thomas Starr; that for many years this affiant has resided near to and often been upon and crossed over upon the said mining premises, and that no known vein or veins of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper exist on said mining claim, or on any part thereof, and he verily believes that none exist thereon; and, further, that he has no interest whatever in the said Starr Placer Claim.

JASON B. HALL.
JAMES D. DENNING.

Subscribed and sworn to by Jason B. Hall and James D. Denning, before me, in my office, in the town of Leadville, in the county of Lake, in the State of Colorado, on this 15th day of March, A. D. 1878.

{Chas. E. Anderson, Notary Public, Lake Co., Colorado.}

C. E. ANDERSON,
Notary Public, Lake Co., Colo.

(Endorsed:) Proof that no known veins exist; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; appli-

cant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 18th day of March, 1878; Jno. J. Henry, register.

152 *Proof that no suit Exists.*

I, Jos. H. Wells, clerk of the District Court for the fourth judicial district of the State of Colorado in and for the county of Lake, do hereby affirm or swear that there is no suit or action, or litigation of any character whatever, pending in said court, involving the right of possession or ownership, or affecting the title to the whole or any portion of the mining property known as the Starr Placer Claim, which is designated by the Surveyor General of Colorado as survey No. 255, in district No. 3, situated in California Mining District, in Lake county and State of Colorado; and that there has been and was no litigation before said court affecting the title to said claim or any part thereof during the five years next preceding the eighteenth day of March, 1878, being the space of time fixed by the statute of limitations for mining claims in the State of Colorado, other than that which has been finally decided in favor of Thomas Starr, and there has been no litigation before said court affecting the title to said claim or any part thereof since the date last above named, other than that which has been finally decided in favor of Thomas Starr.

153 In witness whereof, I hereunto subscribe my name and affix the seal of said court, in my office, in the town of Granite, in the county of Lake and State of Colorado, on this 29th day of May, A. D. 1878.

{ District Court 4th Judicial [SEAL] District, Lake county, Colorado. }

JOS. H. WELLS,
Clerk.

(Endorsed:) Proof that no suit exists; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, in Lake county, Colorado; claimed by Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of June, 1878; Jno. J. Henry, register.

STATE OF COLORADO, }
County of Lake, } *ss:*

On this 6th day of July, A. D. 1878, before me, the undersigned, a notary public within and for the county and State aforesaid, personally came George E. Greege, who, being duly sworn according to law, deposes and says that he is a resident of the town of Leadville, in the county of Lake and State of Colorado, and that he has been such resident of said town, county, and State for about one year last past; that he is well acquainted with the gold placer mining
154 ground for which an application for a patent has been made, and is now pending in the name of Thomas Starr, and knows the location and boundaries thereof; that is well acquainted with

Wilson N. Dameron, whose affidavit in support of the protest made by Thomas Kemp, in behalf of himself and others, against the issuance of such patent, is on file in the land office at Fairplay, Park county, Colorado, and has known the said Dameron for the period of about seven months; that he is also acquainted with the residence of said Dameron, and knows that the said Dameron has resided where he now is for about three months last past, and knows that such place of residence of the said Dameron is not upon the ground aforesaid, for which application for a patent has as aforesaid been made, but is upon a piece or parcel of ground entirely separate and distinct therefrom; and further deponent saith not.

GEORGE E. GREGGE.

Subscribed and sworn to before me this 6th day of July, A. D. 1878.

{ D. Houghton, Notary Public, Lake Co., Colorado. }

D. HOUGHTON,
Notary Public.

(Endorsed:) Affidavit of George E. Gregge; case of Thomas Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 10th day of July, 1878; William K. Burchinell, receiver.

155 *Proof of Posting Plat and Notice.*

Ignatz P. McCreagh and Alexander M. Rucker, each for himself, and not one for the other, being first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years, and was present on the 15th day of March, 1878, when a plat representing the Starr Placer Claim, situate in California Mining District, in Lake county and State of Colorado, together with notice by Thomas Starr of his intention to apply for a patent therefor, was posted in a conspicuous place on said mining claim, to wit, upon the east end of A. R. Meyer's office, situated on the claim, where it could be easily seen and examined, and a true, full, and correct copy of said plat and notice is hereto attached and made a part of this affidavit.

IGNATZ P. McCREAGH.
ALEXANDER M. RUCKER.

Subscribed and sworn to before me this 15th day of March, A. D. 1878; and I hereby certify that I consider the above deponents credible and reliable witnesses, and that the foregoing affidavit, to which a true, full, and correct copy of the plat and notice referred to were attached at the time, was read and examined by each of them before their signatures were affixed thereto and the oath made by them.

C. E. ANDERSON, *Notary Public,*
Lake Co., Colo.

{ Chas. E. Anderson, Notary Public, Lake Co., Colorado. }

157 *Mining Application No.* .

U. S. LAND OFFICE,
CALIFORNIA MINING DISTRICT,
LAKE COUNTY, COLORADO, *March 15th*, 1878.

Notice is hereby given that Thomas Starr, whose post-office is Leadville, Colorado, intends to make, has made application for a patent for 164.64 acres of the Starr Placer Claim, situate in California Mining District, in Lake county, State of Colarado, and described in the official plat and field-notes as follows, viz.:

Beginning at cor. No. 1, bears S. 89° 45′ E. 418 ft.; thence from cor. No. 1, S. 17° 50′ E. 1437 ft.; thence N. 63° 30′ E. 515 ft.; thence N. 68° E. 289.50 ft.; thence N. 84° 28′ E. 179 ft.; thence S. 89° E. 215 ft.; thence S. 82° 19′ E. 277.50 ft.; thence S. 77° 42′ E. 169.50 ft.; thence S. 63° 30′ E. 332 ft.; thence S. 62° 50′ E. 197 ft.; thence N. 38° 20′ E. 620 ft.; thence S. 62° 30′ E. 17 ft.; thence S. 42° 55′ E. 950 ft.; thence S. 28° 30′ E. 150 ft.; thence N. 49° 30′ E. 598 ft.; thence N. 49° 05′ W. 1088 ft.; thence N. 26° 24′ E. 486 ft.; thence N. 64° W. 200 ft.; thence N. 26° E. 915 ft.; thence N. 75° 18′ W. 10.27 ft.; thence N. 28° 20′ W. 370.40 ft.; thence N. 0° 3′ E. 607 ft.; thence N. 14° 17′ W. 136.94 ft.; thence N. 62° E. 333.50 ft.; thence N. 68° 30′ E. 500 ft.; thence N. 75° 35′ E. 500 ft.; thence S. 69° 51′ E. 500 ft.; thence S. 70° E. 500 ft.; thence N. 39° 30′ W. 500 ft.; thence N. 70° W. 500 ft.; thence N. 69° 51′ W. 500
158 ft.; thence S. 75° 35′ W. 500 ft.; thence S. 68° 30′ W. 500 ft.; thence S. 62° W. 114 ft.; thence N. 14° 17′ W. 89.33 ft.; thence N. 31° 55′ W. 328.50 ft.; thence N. 14° 14′ W. 240.80 ft.; thence N. 2° E. 424 ft.; thence N. 2° 35′ E. 442 ft.; thence N. 10° 50′ E. 560.70 ft.; thence N. 10° 37′ E. 841 ft.; thence N. 32°
156 07′ E. 482.20 ft.; thence N. 49° 13′ E. 155.50 ft.; thence N. 78° 42′ E. 142 ft.; thence N. 55° 42′ E. 100 ft.; thence S. 70° 08′ E. 249.50 ft.; thence N. 50° E. 166.50 feet.; thence S. 80° 10′ E. 180 ft.; thence S. 74° 15′ E. 97 ft.; thence S. 40° 28′ E. 125 ft.; thence N. 30° 56′ E. 50 ft.; thence N. 43° 32′ W. 150 ft.; thence N. 74° 15′ W. 97 ft.; thence N. 80° 10′ W. 180 ft.; thence S. 50° W. 166.50 ft.; thence N. 70° 08′ W. 249.50 ft.; thence S. 72° 54′ W. 28.50 ft.; thence S. 57° W. 126 ft.; thence S. 44° W. 69 ft.; thence S. 65° 10′ W. 75 ft.; thence S. 89° 52′ W. 81 ft.; thence S. 62° 50′ W. 70 ft.; thence S. 35° 24′ W. 54.50 ft.; thence S. 56° 20′ W. 104 ft.; thence S. 39° W. 192 ft.; thence S. 27° 36′ W. 292.50 ft.; thence S. 20° 40′ W. 157.40 ft.; thence S. 10° 22′ W. 245 ft.; thence S. 7° 15′ W. 445.50 ft.; thence S. 15° 15′ W. 256.50 ft.; thence S. 8° 26′ W. 303 ft.; thence S. 3° 06′ W. 375 ft.; thence S. 7° 40′ E. 70.50 ft.; thence S. 4° 10′ W. 297 ft.; thence S. 1° 10′ E. 157 ft.; thence S. 15° 20′ E. 222.50 ft.; thence S. 30° 10′ E. 347.50 ft.; thence S. 13° E. 150 ft.; thence S. 13° 10′ E. 580 ft.; thence S. 1° 20′ E. 600 ft.; thence S. 29° 40′ E. 330.50 ft.; thence S. 73° 40′ W. 1411 ft.; thence S. 16° 20′ E. 653 ft.; thence S. 88° 05′ W. 1428.50 ft., to cor. No. 1. Containing 164.61 acres, exclusive of .39 of an acre of sur. No.

158; said location being recorded in vol. 10, pages 122 and 254 of the records of Lake county. Adjoining claimants: A. B. Woods *et als.*, now Stevens and Leiter, on the N. west; Oro M'n'g Ditch & Fluming Co.'s claim, survey 258, on the south.

THOMAS STARR.

[Register Print, Central City.]

159 *Proof of Sums Paid.*

STATE OF COLORADO, } ss:
County of Lake, }

Thomas Starr, having been first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he is the applicant for patent to 164 $\frac{61}{100}$ acres of placer land sur. No. 255, dist. No. 3, in California Mining District, in Lake county, Colorado; that in the prosecution of such application he has paid the following sums of money, viz.:

To receiver of the local land office for land, 164 $\frac{61}{100}$ acres at $2.50 per acre..... $412 50

$412 50

THOMAS STARR.

Subscribed and sworn to before me this 8th day of March, 1879.

D. HOUGHTON,

[SEAL.] *Notary Public.*

(Endorsed:) Proof of sums paid; case of the Thomas Star Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; U. S. land office, Fairplay, Colorado; filed and approved this 12th day of March, 1879; —— ———, register; Wm. K. Burchinell, receiver.

160 STATE OF COLORADO, } ss:
Lake County, }

I, Thomas Starr, do solemnly declare on oath to Jos. H. Wells, clerk of the District Court of the 4th judicial district of Colorado, in and for the county of Lake, that it is *bona fide* my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty whatever, and particularly to the Queen of Great Britain, whereof I was heretofore a citizen or subject.

THOMAS STARR.

Subscribed and sworn to before me this 3d day of July, 1878.

JOS. H. WELLS,

[SEAL.] *Clerk.*

STATE OF COLORADO, *Lake County,* } ss:

I, Jos. H. Wells, clerk of the District Court of the 4th judicial district of Colorado Territory, within and for the county of Lake, do hereby certify that the above is a true copy of the declaration of Thomas Starr, an alien, duly made before me and filed in my office on the 3d day of July, A. D. 1878.

Given under my hand and the seal of said court this 3d day of July, A. D. 1878.

JOS. H. WELLS,
Clerk.

[SEAL.]

161 (Endorsed:) Proof of Citizenship; case of the Thomas Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 10th day of July, 1878; Wm. K. Burchinell, receiver.

STATE OF COLORADO, *Lake County,* } ss:

Wm. H. Stevens, of lawful age, being first duly sworn, deposes and says that he is a citizen of the United States over the age of 21 years, and a resident of Detroit, in the State of Michigan.

That since the year 1873 he has been well acquainted with California Mining District, in the county of Lake, in the State of Colorado, and particularly with the Star Placer Claim, so called, being mining application No. 177, and also the Stevens and Leiter Placer Claim, so called, being application No. 178.

And this affiant further says, upon oath as aforesaid, that in the year 1873 he and one Alvinus B. Wood, who is a citizen of the United States and a resident of Ann Arbor, in the State of Michigan,

162 explored and prospected in and upon said placer claims, as well as upon other and extensive tracts of country in said California Mining District, for the purpose of ascertaining wether said placer claims, and also other placer claims in the vicinity, contained a sufficient amount of gold to justify the expenditure of the large sums of money that would be required to purchase from the claimants of the placer mining claims said claims, and to construct a ditch from near the head of the Arkansas River, a distance of about eleven miles, for the purpose of conveying water to said claims, and also the expense of constructing a bed-rock flume to and into said claims for the purpose of working the same to the best advantage.

And this affiant further says, on oath as aforesaid, that he and the said Wood continued their explorations and prospecting, when they had the opportunity for so doing, until some time in the year 1874, when, having become satisfied from the extensive and thorough investigations made by them as aforesaid, they purchased from the claim-

ants and possessors of said claim a large number of mining claims and a large quantity of placer mining ground, intending there-
163 by to obtain a sufficient interest in the placer mines of said California Mining District to justify the large expenditure of money attendant thereon, and that in making the purchases of mining claims they expended large sums of money, in the aggregate amounting to fifty thousand dollars, and that a part of the mining claims and placer ground so purchased is included in the Starr Placer Claim, so called, and another part of said mining claims so purchased is included in the Stevens and Leiter Placer Claim, so called.

And this affiant further says, on oath as aforesaid, that at the time of the making of said purchases of said mining claims and the expenditure of said sums of money, that the part of said California Mining District in which said claims are situated was almost entirely deserted, so that not more than fifteen miners resided or worked in the immediate vicinity of said claims, and that not more than fifteen houses remained upon or within one mile of said claims, and that said purchases were made in good faith by the affiant, and said Wood believing that said claims contained sufficient gold to jus-
164 tify the large expenditure of money necessary for the purchase and working of the same, and that said claims and mining ground were then and have ever since that time been property classified as placer mineral lands, and were then and are now and of right ought to be subject to be purchased from the United States under the laws thereof relating to the sale of placer mineral lands.

And the affiant further says that, in consequence of the imperfection of the records many of said mining claims, it was deemed advisable to relocate many of said mining claims, which was done accordingly for the sole use and benefit of the affiant and said Wood and their assignees, and that thereafter a portion of said mineral claims was transferred to the said Thomas Starr, and now constitutes a part of the so-called Starr Placer Claim, embraced in application No. 177 as aforesaid, and that the said A. B. Wood sold and transferred, for a valuable consideration, a portion of his interest in said claims to one Levi Z. Leiter, a citizen of the United States, and a resident of Chicago, in the State of Illinois, and thereby this affiant and the said Leiter became pos-
165 sessed of and still are the owners of the said Stevens and Leiter Placer Mine and Mining Claim, being embraced in mining application No. 178.

And this affiant further says that he and the said A. B. Wood, and their associates, organized a mining company, in the year 1875, under the name of the Oro Mining-Ditching, and Fluming Company, for the purpose of securing water to use in working the mines and mining claims aforesaid, and for working the same and securing the gold therefrom.

And the affiant further says that in the year 1875 the said mining company, at a great expense in time, labor, and money, constructed a ditch from near the head of the Arkansas River to and upon said

mines and placer claims, and completed the same in the fall of 1875 and spring of 1876, so that about 5,000 inches of water could be and was carried therein for a distance of about eleven miles and at a cost of about forty thousand dollars.

And this affiant further says, on oath as aforesaid, that the said Oro Mining, etc., Company, in the year 1876, constructed a bed-
166 rock flume from below the ground taken up by the said affiant and A. B. Wood as aforesaid, in and upon a part of said claims, and completed the same to the bed-rock, and thereupon commenced to work and mine the placer claims aforesaid, and that during the mining season since such completion and up to the date hereof have continued to work and mine in and upon said claims, and extract the gold therefrom; and that said Oro, etc., Company have removed and excavated fifty thousand yards of earth in doing and performing said work, and have expended about sixty-six thousand dollars on the same, and that said company have taken out of said mining claims in gold the sum of about eight thousand dollars.

And this affiant further says that the said bed-rock flume has been run and is still being run toward the placer mining claim of the said Starr herein described, and the placer mining claim of the said Stevens and Leiter as aforesaid, for the purpose and with the design of assisting in working the same and the development thereof.

And this affiant further says, upon oath as aforesaid, that at
167 the time of the purchase of said placer claims that no one in the vicinity of the same supposed or thought that there would be a town built or required in the vicinity of said placer claims, and that said claims were not taken up or purchased for the purpose of speculation, but were so taken up and purchased in good faith for mining purposes.

W. H. STEVENS.

Subscribed and sworn to before me this 29th day of June, A. D. 1878; and I hereby certify that the above-named affiant is a credible person, and that his statements herein are entitled to full faith and credence.

[SEAL.] A. S. WESTON,
Notary Public.

(Endorsed:) Affidavit of W. H. Stevens; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, *dist. No.* 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 6th day of July, 1878; Wm. K. Burchinell, receiver.

168 *Receiver's Receipt.*

[Duplicate to be given the purchaser.]

Mineral entry No. 182, lot No. 255, district No. 3, upon unsurveyed land. } U. S. LAND OFFICE, AT FAIRPLAY, COL., *March 6th*, 1879.

Received from Thomas Starr, whose post-office is Leadville, Lake

county, Colorado, the sum of four hundred and twelve and $\frac{50}{100}$ dollars, the same being in full for the surface area embraced by survey No. 255, in the district No. 3, of section , in township No. , of range No. , meridian ; said mineral claim or lot of land being situate in California Mining District, county of Lake and State of Colorado, and known as the Starr Placer claim,—mining claim, embracing 164 $\frac{61}{100}$ acres, as shown by said survey.

$412.50. WM. K. BURCHINELL,
Receiver.

(Endorsed:) Receiver's receipt; case of the Starr Placer Claim; lot No. 255, in district No. 3, in California Mining District, Lake county, Colorado, claimed by Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 6th day of March, 1879; Jno. J. Henry, register.

169 *Proof of Plat and Notice Remaining Posted 60 Days.*

Thomas Starr, being first duly sworn according to law, deposes and says that he is a citizen of the United States over the age of twenty-one years, and that on the 15th day of March, 1878, a plat representing the Starr Placer Claim, situate in California mining district, in Lake county and State of Colorado, together with notice by said Thomas Starr of his intention to apply for a patent therefor, was posted in a conspicuous place in said mining claim, to wit, upon the east end of A. R. Meyer's office, situated on the claim, where it could be easily seen and examined, and that said plat and notice remained so posted upon the east end of A. R. Meyer's office, situated on the claim, continuously from said date of posting until the 30th day of May, 1878, and this affiant is the applicant for patent for said Starr Placer Claim.

THOMAS STARR.

170 Subscribed and sworn to before me this fifth day of June, A. D. 1878; and I hereby certify that I consider the above deponent a credible and reliable witness, and that the foregoing affidavit was read and examined by him before his signature was affixed thereto and the oath made by him.

D. HOUGHTON,
[SEAL.] *Notary Public.*

(Endorsed:) Proof of Plat and Notice Remaining Posted 60 days; case of the Starr Placer Claim, survey No. 255, dist. No. 3, in Lake county, Colorado, claimed by Thomas Starr; U. S. Land Office, Fairplay, Colorado; filed and approved this 18th day of June, 1878; Jno. J. Henry, register.

Corroborative Proof of Possessory Right.

Hiram C. Vaughn and Daniel Houghton, each being first duly

sworn on oath, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he has resided in Lake county, Colorado, since the 17th day of June, 1860; that during all the time since that date he has been acquainted with the
171 mining ground now known as the Starr Placer Claim, situate in California mining district, in the aforesaid county and State, and during the same time has been acquainted with the possessors and workers of said placer claim; that the ground now embraced in said Starr Placer Claim was located and has been possessed and worked in accordance with the customs and usages of miners in said district, and in conformity with the laws and regulations governing the location, holding, and working of mining claims in force and observed in the State of Colorado; that the possession of Thomas Starr and his predecessors in interest of, in, and to the ground included in the said Starr Placer Claim has been actual, notorious, and continuous, to the positive knowledge of deponent, since the date above named, and that such possession has been perfected and maintained in conformity with mining usages and customs, and has been acquiesced in and respected by the miners of the aforesaid district; that the said Thomas Starr's right to the said Starr Placer Claim is not in litigation within the knowledge of this affiant; that the said Thomas Starr and his predecessors in interest have expended
172 in the improvement, development, and working of said claim a sum of money exceeding twenty thousand dollars in actual placer mining work.

HIRAM C. VAUGHN.
DANIEL HOUGHTON.

Subscribed and sworn to by Hiram C. Vaughn and Daniel Houghton, before me, in my office, in the town of Leadville, in the county of Lake, in the Fairplay land district, in the State of Colorado, on this 15th day of March, A. D. 1878.

C. E. ANDERSON,
[SEAL.] *Notary Public, Lake Co., Colo.*

(Endorsed:) Corroborative Proof of Possessory Right; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States land office at Fairplay, Colorado, on the 18th day of March, 1878; John J. Henry, register.

173 *Proof of Citizenship.*

STATE OF COLORADO, } ss:
County of Lake, }

Thomas Starr, being duly sworn, deposes and says that he is a citizen of the United States over the age of twenty-one years; that he was born in the county of Tyron, Ireland, but landed in America at the age of sixteen years; and that affiant is an applicant for patent

for 164.61 acres of the Starr Placer Claim lode, situated in California mining district, county of Lake and State of Colorado, under the provision of the mining laws.

THOMAS STARR.

Subscribed and sworn to before me this 15th day of March, 1878.

C. E. ANDERSON,
[SEAL.] *Notary Public, Lake Co., Col'o.*

(Endorsed:) Proof of citizenship; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; U. S. Land Office, Fairplay, Central City, Colorado; filed and approved this 18th day of March, 1878; Jno. J. Henry, register.

174 *Register's final Certificate of Entry.*

U. S. LAND OFFICE, AT FAIRPLAY,
COLORADO, *March 6th*, 1879.

Mineral entry No. 182, lot No. 255, dist. No. 3, upon unsurveyed land.

It is hereby certified that in pursuance of the mining act of Congress approved July 26, 1866, and the acts amendatory thereof approved July 9, 1878, and May 10, 1872, and all the mining laws, Thomas Starr, whose post-office address is Leadville, Lake county, Colorado, has on this day purchased that mineral claim or lot of land designated as survey No. 255, in the district, No. 3, situate, lying and being in the California mining district, in the county of Lake and State of Colorado, known as the Starr Placer Claim, embracing $164\frac{61}{100}$ acres, as shown by said survey, for which the said Thomas Starr has this day made payment to the receiver in full, amounting to the sum of four hundred and twelve and $\frac{50}{100}$ dollars.

Now, therefore, be it known that upon the presentation of this certificate to the Commissioners of the General Land Office,
175 together with the plat, survey, and description of said claim, a patent shall issue thereupon to the said Thomas Starr, if all be found regular.

JNO. J. HENRY,
Register.

(Endorsed:) Register's final certificate of entry; case of the Starr Placer Claim, being lot No. 255, dist. No. 3, in T. of R., California mining district, in Lake county, Colorado, claimed by Thomas Starr; filed in the United States Land Office at Fairplay, Colorado, on the 6th day of March, 1879; Jno. J. Henry, register.

Abstract of Title to the Placer Claim of Thomas Starr,

situated in California mining district, in the county of Lake and State of Colorado.

A. B. Wood *et al.* to claim No. 1 P., placer mines.

{Book 9, Page 59.} Be it known that A. B. Wood, John B. Crawford, R. J. Wood, and Joseph W. Wood, four citizens of the United States, locate claim and record eighty acres of placer
176 land situated to the north of California Gulch, and more fully described as follows, to wit:

From U. S. locating monument No. 1, established by J. S. Titcomb, U. S. min. surveyor, N. 89° 45′ W., variation 15° E., 418 feet, to corner No. 1, beginning, being a post in mound of stones, from which Mt. Sheridan bears S. 68° E., Mt. Elbert S. 42° 45′ W., and a sharp peak on N. part of Grand Mt. S. 72° W., being also corner No. 1 of claims in California Gulch now held by the Oro M'g Ditch and Fluming Co.; thence N. 88° 05′ E. 2,453 ft. to post in mound of stones, corner No. 2, 8 ft. W. of Starr's mining ditch, from which a pine 10 in. diam. bears N. 0° 20′ W. 15 ft., a pine 14 in. dia. bears N. 36° 35′ W. 45 ft.; thence N. 9° 05′ W. 660 ft. to post in mound of stones, corner No. 3, 12 ft. W. of aforesaid ditch, from whence a pine 12 in. dia. bears N. 71° 10′ E. 7½ ft., a pine 11 in. dia. bears N. 28° 30′ W. 9 ft.; thence N. 27° 35′ E. 355 ft. to post in mound of stones, corner No. 4, 8 ft. from the aforesaid ditch, from whence a pine 7 in. dia. bears N. 26° 20′ E. 4 ft., a pine 10 in. diam. bears S. 1° 20′ E. 7 ft.; thence N. 29° 40′ W. 365 ft. to post in mound of stones, corner No. 5; thence S. 88° 05′ W. 2,832 5/10 feet to post in mound of stones, corner No. 6; thence S. 17° 50′ E. 1,338 1/10
177 ft. to corner No. 1, place of beginning, containing eighty acres, situated in Lake county, Colorado Territory. Sept. 21st, 1874.

Recorded September 22d, A. D. 1874, at 2 o'cl'k P. M.

Placer Claim of C. W. Floyd, et al.

{Book 9, Page 466.} C. W. Floyd, Susan Floyd, and Thomas Graham claims 1,500 feet, commencing at a stake near the old blacksmith shop and running 1,500 feet along Starr's north line, thence 500 feet north, thence 1,500 easterly, thence 500 feet to the place of beginning.

S. D. BREECE,
Recorder California Mining District.

ORO CITY, *Agt.* 1*st*, 1868.

I hereby certify that the above is a true copy of the record made by C. W. Floyd, Susan Floyd, and Thomas Graham.

S. D. BREECE, *Recorder.*

ORO CITY, *April* 7, '77.

Recorded April 13th, A. D. 1877, at 4 P. M.

Quit-claim Deed dated October 16th, 1869.

{Book 6. Page 54.} This deed transfers all the right, title, and interest of C. W. Floyd in and to mining claim Nos. 2, 3, 4, 5, 6, in California Gulch, (Old Sol. Dist.,) to Julius Shultz, for the sum of $50.00.

Recorded April 13th, 1877, at 4 P. M.

178 *Quit-claim Deed dated Oct. 4th, 1869.*

{Book C. Page 53.} This deed transfers all the right, title, and interest of C. W. Floyd in and to certain mining claims, described as follows: Commencing at stake near the head of my works; thence running up the gulch to a blazed tree; thence on a straight line from the above stake and tree to Starr's flume; thence in a southerly direction down the said Starr flume to the side ditch; thence down the said side ditch to a block of ground not worked; thence to the place of beginning in California district: to Julius Shultz, for the sum of $600.00.

Date of acknowledgement, October 4th, 1869; recorded April 13th, 1877.

Quit-claim Deed dated April 7th, 1877.

{Book C. Page 55.} This deed transfers all the right, title, and interest of Thomas Graham in an to the one-third interest of the ground pre-empted by C. W. Floyd, Susan Floyd, and himself, Oct. 1st, 1868, in California Gulch, to Julius Shultz, for the sum of $50.00.

Recorded April 13th, 1877, at 4 P. M.

179 *Julius Shultz to Relocation Placer Claim.*

STATE OF COLORADO, *County of Lake,* } *ss:*

{Book 9. Page 466.} Know all men by these presents that I, Julius Shultz, having complied with the laws of the United States and with the local customs, laws, and regulations, have, this 13th day of April, A. D. 1877, claimed, by right of re-location as a placer claim, the following described premises, situate in California Mining District, to wit:

Commencing at a stake near what used to be an old blacksmith shop, below what is called the old town of Oro City; thence 1,500 feet westerly, along the north line of Thomas Starr's claims, to stake; thence 500 feet north to stake; thence 1,500 feet easterly to stake;

thence 500 feet south to the place of beginning; situate in the county of Lake and State of Colorado.

JULIUS SHULTZ.

Recorded April 13th, A. D. 1877, at 4 P. M.

180 *Aug. K. Meyer et al. to Certificate Placer Claim.*

STATE OF COLORADO, } ss:
County of Lake, }

{ Book 9, Page 471. } Know all men by these presents: That we, the undersigned, claim by right of location and pre-emption under the laws of the United States, and according to the local customs and regulations, the following described placer claim, more particularly described as follows, to wit:

Commencing at a point about 300 feet north of the house now used by Aug. R. Meyer as an ore house, near the old town of Oro City, at a stake; thence running north 800 feet to stake; thence 1,000 feet east to stake; thence 800 feet south to stake; thence 1,000 feet west to stake, the place of beginning, situate in the county of Lake and State of Colorado, and in California Mining District.

Located April 21st, A. D. 1877.

AUG. R. MEYER.
ALBERT HOTZ.
GEORGE L. HENDERSON.
DAVID COPELAND.

Recorded April 21st, A. D. 1877, at 6 P. M.

181 *George L. Henderson to Certificate Placer Claim.*

STATE OF COLORADO, } ss:
County of Lake, }

{ Book 9, Page 478. } Know all men by these presents: That I, G. L. Henderson, claim by right of location and pre-emption under the laws of the United States, and according to the local customs and regulations, the following described placer claim, to wit:

Commencing at a stake marked No. 1, about 300 feet north of the house now used by Aug. R. Meyer as an ore house, near the old town of Oro City; thence running north 500 feet to a stake marked No. 2; thence west 500 feet to a stake marked No. 3; thence 500 ft. south to a stake marked No. 4; thence east 500 feet to the place of beginning, situated in the county of Lake and State of Colorado and California Mining District.

Located May 3d, A. D. 1877.

GEO. L. HENDERSON.

Recorded May 4th, A. D. 1877, at 2 P. M.

182 *Julius Shultz to Re-location Certificate Placer Claim.*

STATE OF COLORADO, }
County of Lake, } *ss:*

{Book 10, Page 17.} Know all men by these presents: That I, the undersigned, have this 19th day of May, A. D. 1877, relocated the following described placer claim by right of pre-emption and purchase under the laws of Congress approved May 10th, 1872, being situated in California Mining District, said county and State, said claim being known as the Floyd *et al.* Claims, and more particularly marked and described as follows, to wit:

Beginning a corner No. 1, a pine post which *which* bears from south side of an old anvil block, where the old blacksmith shop stood below the old town of Oro City, in California Gulch, S. 73° 40′ W. 500 feet; thence S. 73° 40 W′ 1,000 feet to cor. No. 2, a pine post; thence N. 16° 20′ W. 500 feet to cor. No. 3, a pine post; thence N. 73° 40′ E. 1,000 feet to cor. No. 4, a pine post; thence S. 16° 20′ E. 500 feet to the place of beginning, the former record of which is found in Book 9, page 466, in the office of the clerk and recorder of said county and State.

JULIUS SHULTZ.

Recorded May 21st, A. D. 1877, at 7 A. M.

183 *Aug. R. Meyer et al. to Certificate Placer Claim.*

STATE OF COLORADO, }
County of Lake, } *ss:*

{Book 10, Page 18.} Know all men by these presents: That we, the undersigned, claim by right of location and pre-emption under the laws of Congress approved May 10th, 1872, as a placer claim situated in California Mining District, in the county of Lake, State of Colorado, the following described, viz.: Beginning at a post on the south line of A. B. Wood *et al.* Placer Claim; thence S. 16° 20′ E., va. 15° E., 136 feet to a post; thence S. 3° E. 615.5 feet to a post which bears from a post on S. side of an old anvil block where the old blacksmith shop stood below the old town of Oro City, S. 65° 57° E. 500 feet; thence 65° 57′ E. 400 feet to a post; thence S. 28° 30′ E. 150 feet to a post; thence N. 49° 30′ E. 600 feet to a post; thence northwesterly to the place of beginning, and containing $19\frac{95}{100}$ acres of placer mining ground.

Dated May 19th, A. D. 1877.

AUG. R. MEYER.
S. D. BREECE.
GEO. HENDERSON.
W. H. BRADT.

Recorded May 22nd, A. D. 1877, at 7 A. M.

184 *Aug. R. Meyer et al. to Certificate Placer Claim.*

STATE OF COLORADO, } ss:
County of Lake, }

{Book 10, Page 18.} Know all men by these presents: That we, the undersigned, claim by right of location and pre-emption under the act of Congress approved May 10th, 1872, as a placer claim situated in California Mining District, county of Lake and State of Colorado, and described as follows: Beginning at cor. No. 1 post in mound of stones which bears from locating monument No. 1, established by J. S. Titcomb, U. S. dep. min. surveyor, N. 89° 45′ W., va. 15° E., 418 feet; thence S. 17° 50′ E. 500 to a post; thence easterly along the north line of A. J. Hill's and the Floyd claim 1368 feet to a post; thence N. 16° 20′ W. 134 feet to a post; thence S. 88° 5′ W. 1429 feet to the place of beginning, containing 10 acres of placer mining ground.

Dated May 19th, A. D. 1877.

AUG. R. MEYER.
S. D. BREECE.
GEO. HENDERSON.
W. H. BRADT.

Recorded May 22nd, A. D. 1877, at 7 P. M.

185 STATE OF COLORADO, } ss:
County of Lake, }

Know all men by these presents: That we, the undersigned, did on the nineteenth day of June, 1877, claim by right of location twenty-seven and sixty-one hundredths of an acre of placer mining ground, in accordance with act of Congress approved May 10th, 1872, said placer claim being situated in California Mining District, the location and bounds of said claim being marked and described more particularly as follows, to wit:

Beginning at cor. No. 1, being N. W. cor. of Breece, Henderson & Co.'s placer claim, on N. line of A. B. Wood's claim; thence S. 49° 5′ E., va. 15° E., 1,000 feet to cor. No. 2; thence N. 26° 24′ E. 488.5 feet to cor. No. 3, a pine post in mound of stone; thence N. 64° W. 200 feet to cor. No. 4, a post in mound of stone; thence N. 26° E. 920.1 feet to cor. No. 5, a post in mound of stone; thence N. 75° 18′ W. 1077 feet to cor. No. 6, being cor. No. 4, A. B. Wood's claim, and on the south side of the Starr ditch; thence S. 27° 40′ W. 355 ft. to cor. No. 7 and cor. No. 3 of A. B. Wood's claim; thence S. 6° 50′ E. 658 feet to cor. No. 8 and cor. No. 2 of A. B. Wood's claim; thence S. 88° 5′ W. 675 feet to the place of
186 beginning, containing $27\frac{60}{100}$ acres.

S. D. BREECE.
AUG. R. MEYER.
W. H. BRADT.
GEO. L. HENDERSON.

Recorded June 20, 1877, at 4 P. M.

A. J. Hill to Certificate Placer Claim.

STATE OF COLORADO, *County of Lake,* } *ss:*

{Book 10. Page 107.} Know all men by these presents: That I, A. J. Hill, of the county of Lake, of the State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws, rules, and regulations, claim, by right of discovery and relocation as placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 1, which bears from cor. No. 1 Oro Fluming and Mining Co.'s claim S. 17° 50′ E., va. 15° E., 480 feet, which bears from U. S. locating monument No. 1 N. 89° 45′ W. 418 feet; thence S. 17° 50′, va. 15° E., 519.5 feet and cor. No. 2, at the
187 old Jeffries Chimney; thence N. 70° 52′ E. 464 feet and cor. No. 3, a post in mound of stones; thence N. 17° 47′ W. 490.38 feet to cor. No. 4, a post in mound of stones; thence S. 74° 28′ W. 464 feet to the place of beginning; containing $4\frac{87}{100}$ acres. Relocated August 8th, 1877. Date of certificate, August 15th, A. D. 1877.

A. J. HILL.

Recorded August 15th, A. D. 1877, at 3 P. M.

Quit-claim Deed dated May 31st, 1877.

{Book C, Page 97.} This deed transfers all the right, title, and interest of *Thomas Starr* in and to certain placer ground, commencing at cor. No. 1, which bears from cor. No. 3 of claim of A. R. Meyer, designated by a stump used as an anvil-block in an old blacksmith shop near the old town of Oro City, N. 16° 20′ W. 200 feet; thence 503.4 feet N. 67° 57′ E. to cor. No. 2; thence 136 ft. N. 16° 20′ W. to cor. No. 3; thence 539.5 feet S. 85° 30′ W. to cor. No. 4; thence 300 ft. S. 16° 20′ E. to cor. No. 1, the place of beginning, situate in the California Mining District, to *Aug. R. Meyer*, for the sum of fifty dollars.

Date of acknowledgement, July 5th, 1877.

Recorded July 13th, A. D. 1877, at 6 P. M.

188 *Quit-claim Deed dated April 18th, 1878.*

{Book C, Page 98.} This deed transfers all right, title, and interest of *Julius Shultz* in and to certain placer ground, to wit: Commencing at a stake near what used to be an old blacksmith shop, below what is called the old town of Oro City; thence 500 feet westerly, along the north line of Thomas Starr's claim, to stake; thence 500 feet north to stake; thence five hundred feet easterly to

stake; thence 500 ft. south to the place of beginning, situate in California Mining District, to *Aug. R. Meyer*, for the sum of sixty dollars.

Date of acknowledgment, May 30th, 1877.

Recorded July 13th, A. D. 1878, at 6 P. M.

Quit-claim Deed dated July 17th, 1877.

{ Book 6. / Page 106. } This deed transfers all the right, title, and interest of Alvinus B. Wood and *William H. Stevens* in and to certain placer ground, to wit:

Beginning at corner No. 1, which bears from U. S. locating monument established by J. S. Titcomb, U. S. dep. min. surveyor, designated as locating monument No. 1; said corner No. 1 bears from
189 said monument S. 50° 38′ E., variation 15°, 1070 feet; thence S. 16° 20′ E. 666 feet to cor. No. 2; thence N. 85° 5′ E. 1029 ft. to corner No. 3; thence N. 16° 20′ W. 1000 feet to the place of beginning, situate in California Mining District, to Augustur R. Meyer, for the sum of fifty dollars.

Date of acknowledgement, July 20th, 1877.

Recorded July 25th, A. D. 1877, at 4 P. M.

Quit-claim Deed dated June 26th, 1877.

{ Book C. / Page 134. } This deed transfers all the right, title, and interest of R. J. Wood, Jas. W. Wood, J. B. Crawford, in and to certain placer claims situated in California Gulch, known as Placer Claims No. 1 P, No. 2 P, No. 3 P, and No. 4 P, near the old town of Oro City, to A. B. Wood, for the sum of fifty dollars.

Date of acknowledgement, June 26th, 1877.

Recorded August 21st, A. D. 1877, at 10 A. M.

190 *Julius Shultz to Certificate Placer Claim.*

STATE OF COLORADO, } *ss:*
County of Lake, }

{ Book 10. / Page 108. } Know all men by these presents: That I, Julius Shultz, of the county of Lake, State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws and regulations, claim, by right of discovery and location, as a placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 3 of A. J. Hill's claim, relocated Aug. 8th, 1877; thence N. 70° 52′ E., va. 15° E., 895.2 feet to cor. No. 2; thence N. 16° 20′ W., 434 feet to cor. No. 3; thence S. 74° 28′ W., 907.4 feet to cor. No. 4; thence S. 17° 47′ E., 490.38 feet to the

place of beginning, containing $10\frac{6}{100}$ acres of placer mining ground; said claim was located August 8th, A. D. 1877.

Date of certificate, Aug. 15th, 1877.

JULIUS SHULTZ.

Recorded August 15th, A. D. 1877, at 4 P. M.

JOS. H. WELLS, *Recorder.*

191 *Julius Shultz to Certificate Placer Claim.*

STATE OF COLORADO, } ss:
County of Lake, }

{ Book 10, } Page 108. } Know all men by these presents: That I, Julius Shultz, of the county of Lake, State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws and regulations, claim, by the right of discovery and location, as a placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 1, a post in mound of stones, which bears from the S. E. of Thomas Starr's claim in Cal. Gulch, N. 38° 18′ E., va. 15° E., 106.5 feet; thence N. 50° 30′ W. 309.5 to cor. No. 2; thence N. 43° 8′ E. 140.5 feet to cor. No. 3; thence S. 48° 35′ E. 298.3 feet to cor. No. 4; thence S. 38° 18′ W. 130 feet to the place of beginning, containing $1\frac{99}{100}$ acres of placer mining ground.

Said claim was located Aug. 8th, A. D. 1877.

Date of certificate, Aug. 15th, A. D. 1877.

JULIUS SHULTZ.

Recorded Aug. th, 1877, at 4 P. M.

192 *Thomas Starr et al. to Certificate Placer Claim.*

STATE OF COLORADO, } ss:
County of Lake, }

{ Book 10, } Page 116. } Know all men by these presents: That we, Thomas Starr and James McPhelemy, Jr., of the county of Lake and State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws and regulations, claim, by right of location and preëmption, as a ditch and placer claim, with the right of water from Evans' Gulch, the following described premises, situated in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 1, a post in mound of stone, being the N. W. cor. of Breece, Henderson and Co.'s 27-acre placer claim, and on the south side of the Starr ditch; thence N. 29 degrees 40 minutes W., va. 15 degrees E., 564.5 feet to cor. No. 2; thence N. 1 degree 20 minutes W. 600 feet to cor. No. 3; thence N. 13 degrees 10 minutes W. 580 feet to cor. No. 4; thence N. 13 degrees W. 150.5

feet to cor. No. 5; thence N. 30 degrees 10 minutes W. 348 feet to cor. No. 6; thence N. 15 degrees 20 minutes W. 222.5 feet to cor. No. 7; thence N. 1 degree 10 minutes W. 157.5 feet to cor. No. 8; thence N. 4 degrees 10 minutes E. 297 feet to cor. No. 9;
193 thence N. 7 degrees 40 minutes W. 70.5 feet to cor. No. 10; thence N. 3 degrees 6 minutes E. 375 feet to cor. No. 11; thence N. 8 degrees 26 minutes E. 303 feet to cor. No. 12; thence N. 15 degrees 50 minutes E. 256.5 feet to cor. No. 13; thence N. 7 degrees 15 minutes E. 445.5 feet to cor. No. 14; thence N. 10 degrees 22 minutes E. 245 feet to cor. No. 15; thence N. 20 degrees 40 minutes E. 157.4 feet to cor. No. 16; thence N. 27 degrees 36 minutes E. 292.5 feet to cor. No. 17; thence N. 30 degrees — minutes 192 feet to cor. No. 18; thence N. 56 degrees 24 minutes E. 104 feet to cor. No. 19; thence N. 35 degrees 24 minutes E. 54.5 feet to cor. No. 20; thence N. 62 degrees 50 minutes E. 69.5 feet to cor. No. 21; thence N. 89 degrees 52 minutes E. 80.5 feet to cor. No. 22; thence N. 65 degrees 10 minutes E. 74.5 feet to cor. No. 23; thence N. 44 degrees E. 69 feet to cor. No. 24; thence N. 57 degrees E. 126 feet to cor. No. 25; thence N. 72 degrees 54 minutes E. 28.5 feet to cor. No. 26; thence S. 70 degrees 8 minutes E. 249.5 feet to cor. No. 27; thence N. 50 degrees E. 166.5 feet to cor. No. 28; thence S. 80 degrees 10 minutes E. 180 feet to cor. No. 29; thence S. 74 degrees 15 minutes E. 97 feet to cor. No. 30; thence S. 43 degrees 32 minutes E. 150 feet to cor. No. 31; thence S. 30 degrees 56 minutes W. 50 feet to cor. No. 32; thence N. 40 degrees 28 minutes W. 126.5 feet to cor. No. 33; thence N. 74 degrees 15 minutes W. 97 feet to cor. No. 34; thence N. 80 degrees 10 minutes W. 180 feet to cor. No. 35; thence S. 50 degrees W. 166.5 feet to cor. No. 36; thence N. 70
194 degrees 8 minutes W. 249.5 feet to cor. No. 37; thence S. 86 degrees 40 minutes W. 89.77 feet to cor. No. 38; thence S. 54 degrees 59 minutes W. 141 feet to cor. No. 39; thence S. 82 degrees 37 minutes W. 141 feet to cor. No. 40; thence S. 49 degrees 13 minutes W. 155.9 feet to cor. No. 41; thence S. 32 degrees 6 minutes W. 483 feet to cor. No. 42; thence S. 10 degrees 38 minutes W. 841 feet to cor. No. 43; thence S. 10 degrees 50 minutes W. 559 feet to cor. No. 44; thence S. 2 degrees 35 minutes W. 440 feet to cor. No. 45; thence S. 2 degrees W. 422 feet to cor. No. 46; thence S. 14 degrees 14 minutes E. 240 feet to cor. No. 47; thence S. 31 degrees 54 minutes E. 328.3 feet to cor. No. 48; thence S. 14 degrees 17 minutes E. 736.4 feet to cor. No. 49; thence S. 0 degree 5 minutes 47 seconds W. 607 feet to cor. No. 50; thence S. 28 degrees 48 minutes E. 576.2 feet to cor. No. 51; thence N. 75 degrees 18 minutes W. 50 feet to the place of beginning, containing five acres of places mining ground. Said claim was located Aug. 6th, A. D. 1877.

Date of certificate, Aug. 23d, A. D. 1877.

THOMAS STARR.
JAMES McPHELEMY, JR.

Recorded Aug. 24th, A. D. 1877, at 4 P. M.

195 *Thomas Starr et al. to Certificate Placer Claim.*

STATE OF COLORADO, } ss:
County of Lake, }

Know all men by these presents: That we, Thomas Starr and James McPhelemy, Jr., of the county of Lake and State of Colorado, having complied with the provisions of chapter six, title XXXII, of the Revised Statutes of the United States, and with the local laws and regulations, claim by right of discovery and location and purchase, as a placer claim, the following described premises, situate in California Mining District, county and State aforesaid, to wit:

Beginning at cor. No. 1 at the old Jeffries Chimney in California Gulch; thence north 70 degrees 52 minutes east, va. 15 degrees east, 1357.2 feet to cor. No. 2; thence north 16 degrees 20 minutes west 65 feet to cor. No. 3; thence north 88 degrees 15 minutes east 517 feet to cor. No. 4; thence north 16 degrees 20 minutes west 200 feet to cor. No. 5; thence north 70 degrees 30 minutes east 245.5 feet to cor. No. 6; thence north 78 degrees 45 minutes east 346 feet to cor. No. 7; thence south 25 degrees 20 minutes east 255 feet to cor. No. 8; thence south 33 degrees 30 minutes east 79 feet to cor. No. 9; thence south 44 degrees 45 minutes east 103 feet to cor. No. 10; thence south 58 degrees east 293 feet to cor. No. 11; thence south 40 degrees 50 minutes west 305 feet to No. 12; thence north
196 62 degrees 30 minutes west 17 feet to cor. No. 13; thence south 38 degrees 18 minutes west 620 feet to cor. No. 14; thence north 62 degrees 50 minutes west 197 feet to cor. No. 15; thence north 63 degrees 30 minutes west 332 feet to cor. No. 16; thence north 77 degrees 42 minutes west 169.5 feet to cor. No. 17; thence north 82 degrees 15 minutes west 277.5 feet to cor. No. 18; thence north 89 degrees west 215 feet to cor. No. 19; thence south 84 degrees 30 minutes west 179 feet to cor. No. 20; thence south 68 degrees west 289.5 feet to cor. No. 21; thence south 63 degrees 30 minutes west 515 feet to cor. No. 22; thence north 17 degrees 50 minutes west 437 feet to the place of beginning, containing $36\frac{36}{100}$ acres of placer mining ground. Said claim was located August 9th, A. D. 1877.

Date of certificate, Aug. 23d, A. D. 1877.

THOMAS STARR.
JAMES McPHELEMY, JR.

Recorded Aug. 24th, A. D. 1877, at 4 P. M.

Quit-claim Deed dated August 27th, 1877.

This deed transfers all the right, title, and interest of Augustus R. Meyer in and to certain placer ground, being same claim the certificate of relocation of which is recorded in Book 10, page 121, of Lake county records, to Thomas Starr, for the sum of one dollar and other considerations.

{ Book C. Page 141. }

Date of acknowledgement, Aug. 27, 1877.

Recorded August 28th, A. D. 1877, at 7 A. M.

197 *Aug. R. Meyer to Certificate Placer Claim.*

{ Book 10, } { Page 121. } Know all men by these presents: That I, the undersigned, claim by right of purchase and relocation thirty-one and sixty-one hundredths acres of placer mining ground, and have this 24th day of August, A. D. 1877, relocated the following described premises, situated in California mining district, county of Lake and State of Colorado, to wit:

Beginning at cor. No. 1, a post cornered which bears from U. S. locating monument No. 1, established by J. S. Titcomb, U. S. dep. mineral surveyor, north 50 degrees 38 minutes east 1070 feet; thence south 16 degrees 20 minutes east 1231 feet to cor. No. 2; thence north 88 degrees 15 minutes east 517 feet to cor. No. 3; thence north 16 degrees 20 minutes west 200 feet to cor. No. 4; thence north 17 degrees 30 minutes east 245 feet to cor. No. 5; thence north 3 degrees west 59 feet to cor. No. 7; thence north 16 degrees 20 minutes west 137 feet to cor. No. 8; thence north 88 degrees 5 minutes east 67 feet to cor. No. 9; thence north 6 degrees 50 minutes west 659 feet to cor. No. 10; thence north 27 degrees 40 minutes east 354 feet to cor. No. 11; thence north 29 degrees 40 minutes west 28 feet to cor. No. 12; thence south 73 degrees 40 minutes west 1413 feet to the place of beginning; variation in all courses, 15 degrees east.

AUG. R. MEYER.

Recorded August 28th, A. D. 1877, at 7 P. M.

198 *Agreement of Thomas Starr and Aug. R. Meyer dated Aug. 27, 1877.*

{ Book C, } { Page 143. } This agreement, made by Thomas Starr and Aug. R. Meyer, is to the effect that whereas persons owning contiguous placer claims may combine such claims according to the laws of the United States, for the purposes of obtaining a patent therefor from the United States, and the said Aug. R. Meyer has heretofore, by his quit-claim deed dated Aug. 27, 1877, conveyed to Thomas Starr certain placer ground: It is agreed that Thomas Starr shall reconvey to the said Aug. R. Meyer the said premises, as fully specified in said deed, after a patent shall have been procured by said Starr.

Date of acknowledgement, Aug. 27, 1877.

Recorded Aug. 28th, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 27, 1877.

This deed transfers all the right, title, and interest of S. D. Breece, Aug. R. Meyer, Geo. L. Henderson, W. H. Bradt, in and to certain placer ground, to wit:

199 Beginning at cor. No. 1, a post in mound of stone which bears from U. S. locating monument, established by J. S. Tit-

comb, U. S. deputy mineral surveyor, north 89 degrees 45 minutes west, va. 15 degrees east, 418 feet; thence north 88 degrees 5 minutes east 1428.5 feet to cor. No. 2; thence south 16 degrees 20 minutes east 142 feet to cor. No. 3; thence south 74 degrees 28 minutes 35 seconds east 298.3 feet to cor. No. 4; thence south 38 degrees 18 minutes west 130 feet to the place of beginning, containing 99-100 acres in California mining district, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement, Aug. 27th, 1877.

Recorded Aug. 30, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 23d, 1877.

This deed transfers all the right, title, and interest of A. J. Hill in and to certain placer ground, to wit, being same claim that was recorded in book 10, page 107, August 15th, A. D. 1877, in Lake county records, to Thomas Starr, for the sum of $100.00.

Date of acknowledgement, Aug. 27, 1878.

Recorded Aug. 30th, A. D. 1878, at 7 P. M.

200 *Agreement of Thomas Starr and S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt dated Aug. 22, 1878.*

{ Book C, Page 164. } This agreement is to the effect that whereas persons owning contiguous placer claims may combine such claims, according to the laws of the United States, for the purpose of obtaining a patent therefor from the United States; and the said S. D. Bruce et al. have heretofore, by their quit-claim deeds dated August 27, 1877, conveyed to Thomas Starr certain placer grounds: It is agreed that Thomas Starr shall reconvey to the said S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt the said premises, as fully specified and described in said deeds, after a patent shall have been procured by said Starr.

Quit-claim Deed dated Aug. 23d, 1877.

{ Book C, Page 158. } This deed conveys all the right, title, and interest of Julius Shultz in and to certain placer ground, to wit:

Beginning at cor. No. 3 of A. J. Hill's claim in California Gulch, relocated Aug. 8th, 1877; thence north 70 degrees 52 minutes east (va. 15 degrees east) 895.2 feet to cor. No. 2; thence north 16 degrees 20 minutes west 434 feet to cor No. 3; thence south 74 degrees 28 minutes west 907.4 feet, to cor. No. 4; thence south 17 degrees 47 minutes east 490.38 feet to the place of beginning, $10\frac{6}{100}$ acres, in California Mining District, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement, August 27, 1877.

Recorded August 30, A. D. 1877, at 7 P. M.

202 *Quit-claim Deed dated Aug. 23d, 1877.*

{ Book C. } { Page 160. } This deed transfers all the right, title and interest of Julius Shultz in and to certain placer ground, to wit:

Beginning at cor. No. 1, a post in mound of stone which bears from the southeast of Thomas Starr's claim in California Gulch, north 38 degrees 18 minutes east (va. 15 degrees east) 106.5 feet; thence north 50 degrees 30 minutes west 309.5 feet to cor. No. 2, a post in mound of stone; thence north 43 degrees 8 minutes east 140.5 to cor. No. 3, a post in mound of stones; thence south 48 degrees
201 west 1371.4 feet to cor. No. 4; thence north 17 degrees 50 minutes west 480 feet to the place of beginning, in California Mining District, containing $10\frac{44}{100}$ acres, to Thomas Starr, for the sum of one dollar.

Date of acknowledgement, August 27, 1877.

Recorded August 30, A. D. 1877, at 7 P. M.

203 *Quit-claim Deed dated August 27th, 1877.*

This deed transfers all the right, title, and interest of S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt in and to certain placer ground, to wit:

{ Book C. } { Page 166. } Beginning at cor. No. 12 of the claim of Thomas Starr and James McPhelemy, Jr., of $36\frac{36}{100}$ acres in California Gulch, at the old town of Oro.

Thence south 42 degrees 55 minutes east (va. 15 degrees east) 950 feet to cor. No. 2; thence south 28 degrees 30 minutes east 150 feet; thence north 49 degrees 30 minutes east 600 ft.; thence north 49 degrees five minutes west 1085 feet; thence north 26 degrees 24 minutes east 488.5 feet; thence north 64 degrees west 200 feet; thence north 26 degrees east 920 feet; thence north 75 degrees 18 minutes west 1077 feet; thence south 27 degrees 40 minutes west 354 feet; thence south 6 degrees 50 minutes east 659 feet; thence south 88 degrees 5 minutes west 67 feet; thence south 16 degrees 20 minutes east 137 feet; thence south 3 degrees east 59 feet; thence north 78 degrees 45 minutes east 105 feet; thence south 25 degrees 20 minutes east 253 feet; thence south 33 degrees 30 minutes east 79 feet; thence south 44 degrees 45 minutes east 103 feet; thence south 58 degrees east 293 feet; thence south 40 degrees 50 minutes west 305 feet to the place of beginning, in California Mining District, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement Aug. 27, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

204 *Title Bond dated Aug. 23d, 1877.*

{ Book C. } { Page 170. } This bond binds Thomas Starr in the sum of two thousand dollars unto G. L. Henderson and John Leahy.

The condition of said bond is that Thomas Starr shall make a good and sufficient deed to said Henderson and Leahy for the following described placer ground:

Beginning at a post in mound of stones, which bears from the northwest corner of Starr's Gulch claims south 60 degrees 40 minutes east, va. 15 degrees east, 248 feet; thence north 72 degrees 27 minutes east 409 ft.; thence north 78 degrees 20 minutes east 673 feet; thence south 5 degrees east 100 feet; thence south 78 degrees 20 minutes west 673 feet; thence south 72 degrees 27 minutes west 409 feet; thence north 5 degrees west 100 feet to beginning, containing $2\frac{499}{1000}$ acres in California Mining District, upon the said Starr receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, August 27, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 27th, 1877.

{ Book C, } This bond binds Thomas Starr in the sum of five
{ Page 170. } hundred dollars unto A. J. Hill.

The condition of said bond is that Thomas Starr shall
205 make a good and sufficient deed to said Hill for the following described placer ground, to wit, being same ground the location whereof is recorded in Book 10, page 107, Lake Co. records, upon the said Starr receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 27th, 1877.

{ Book C, } This bond binds Thomas Starr in the sum of one
{ Page 173. } thousand dollars unto Julius Shultz. The condition of said bond is that the said Thomas Starr shall make a good and sufficient deed to said Julius Shultz for the following described placer ground conveyed by deed from said Shultz bearing date of August 23d, A. D. 1877, upon the said Starr's receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded August 30th, A. D. 1877, at 7 P. M.

206 *Title Bond dated Aug. 23d, 1877.*

{ Book C, } This bond binds Thomas Starr in the sum of six
{ Page 174. } hundred dollars unto Geo. L. Henderson.

The condition of said bond is that the said Thomas Starr shall make a good and sufficient deed to said Henderson for the following described placer ground:

Beginning at cor. No. 1, which bears from cor. No. 3 of the

202 *Quit-claim Deed dated Aug. 23d, 1877.*

{ Book C, Page 160. } This deed transfers all the right, title and interest of Julius Shultz in and to certain placer ground, to wit:

Beginning at cor. No. 1, a post in mound of stone which bears from the southeast of Thomas Starr's claim in California Gulch, north 38 degrees 18 minutes east (va. 15 degrees east) 106.5 feet; thence north 50 degrees 30 minutes west 309.5 feet to cor. No. 2, a post in mound of stone; thence north 43 degrees 8 minutes east 140.5 to cor. No. 3, a post in mound of stones; thence south 48 degrees
201 west 1371.4 feet to cor. No. 4; thence north 17 degrees 50 minutes west 480 feet to the place of beginning, in California Mining District, containing $10\frac{44}{100}$ acres, to Thomas Starr, for the sum of one dollar.

Date of acknowledgement, August 27, 1877.

Recorded August 30, A. D. 1877, at 7 P. M.

203 *Quit-claim Deed dated August 27th, 1877.*

This deed transfers all the right, title, and interest of S. D. Breece, Aug. R. Meyer, G. L. Henderson, and W. H. Bradt in and to certain placer ground, to wit:

{ Book C, Page 166. } Beginning at cor. No. 12 of the claim of Thomas Starr and James McPhelemy, Jr., of $36\frac{36}{100}$ acres in California Gulch, at the old town of Oro.

Thence south 42 degrees 55 minutes east (va. 15 degrees east) 950 feet to cor. No. 2; thence south 28 degrees 30 minutes east 150 feet; thence north 49 degrees 30 minutes east 600 ft.; thence north 49 degrees five minutes west 1085 feet; thence north 26 degrees 24 minutes east 488.5 feet; thence north 64 degrees west 200 feet; thence north 26 degrees east 920 feet; thence north 75 degrees 18 minutes west 1077 feet; thence south 27 degrees 40 minutes west 354 feet; thence south 6 degrees 50 minutes east 659 feet; thence south 88 degrees 5 minutes west 67 feet; thence south 16 degrees 20 minutes east 137 feet; thence south 3 degrees east 59 feet; thence north 78 degrees 45 minutes east 105 feet; thence south 25 degrees 20 minutes east 253 feet; thence south 33 degrees 30 minutes east 79 feet; thence south 44 degrees 45 minutes east 103 feet; thence south 58 degrees east 293 feet; thence south 40 degrees 50 minutes west 305 feet to the place of beginning, in California Mining District, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement Aug. 27, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

204 *Title Bond dated Aug. 23d, 1877.*

{ Book C, Page 170. } This bond binds Thomas Starr in the sum of two thousand dollars unto G. L. Henderson and John Leahy.

The condition of said bond is that Thomas Starr shall make a good and sufficient deed to said Henderson and Leahy for the following described placer ground:

Beginning at a post in mound of stones, which bears from the northwest corner of Starr's Gulch claims south 60 degrees 40 minutes east, va. 15 degrees east, 248 feet; thence north 72 degrees 27 minutes east 409 ft.; thence north 78 degrees 20 minutes east 673 feet; thence south 5 degrees east 100 feet; thence south 78 degrees 20 minutes west 673 feet; thence south 72 degrees 27 minutes west 409 feet; thence north 5 degrees west 100 feet to beginning, containing $2\frac{499}{1000}$ acres in California Mining District, upon the said Starr receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, August 27, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 27th, 1877.

{ Book C, Page 170. } This bond binds Thomas Starr in the sum of five hundred dollars unto A. J. Hill.

The condition of said bond is that Thomas Starr shall
205 make a good and sufficient deed to said Hill for the following described placer ground, to wit, being same ground the location whereof is recorded in Book 10, page 107, Lake Co. records, upon the said Starr receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Title Bond dated Aug. 27th, 1877.

{ Book C, Page 173. } This bond binds Thomas Starr in the sum of one thousand dollars unto Julius Shultz. The condition of said bond is that the said Thomas Starr shall make a good and sufficient deed to said Julius Shultz for the following described placer ground conveyed by deed from said Shultz bearing date of August 23d, A. D. 1877, upon the said Starr's receiving a patent from the United States therefor. Then the above obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded August 30th, A. D. 1877, at 7 P. M.

206 *Title Bond dated Aug. 23d, 1877.*

{ Book C, Page 174. } This bond binds Thomas Starr in the sum of six hundred dollars unto Geo. L. Henderson.

The condition of said bond is that the said Thomas Starr shall make a good and sufficient deed to said Henderson for the following described placer ground:

Beginning at cor. No. 1, which bears from cor. No. 3 of the

Henderson and Leahy's claim in California Gulch, N. 34 degrees W., va. 15 degrees E., 185.5 feet sout 100 feet to cor. No. —; thence W. 100 feet to cor. No. 3; thence north 100 feet to cor. 4; thence E. 100 feet to place of beginning, containing $\frac{28}{100}$ acres, upon the said Starr receiving a patent from the United States therefor. Then this obligation to be void.

Date of acknowledgement, Aug. 27th, 1877. Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 27th, 1877.

{ Book C, } { Page 175. } This deed transfers all the right, title, and interest of James McPhelemy, Jr., in and to the following described placer ground, to wit, an undivided one-half interest in a certain placer and ditch claim of 5 acres, and recorded in Book 10, page 116, Lake co. records.

207 Also an undivided one-half interest in a certain placer gulch claim situate in California Gulch, and recorded in Book 10, page 117, Lake county records, to Thomas Starr, for the sum of one hundred dollars.

Date of acknowledgement, Aug. 27th, 1877.

Recorded Aug. 30th, A. D. 1877, at 7 P. M.

Quit-claim Deed dated Aug. 29th, A. D. 1877.

{ Book C, } { Page 182. } This deed transfers all the right, title, and interest of Peter Starr, James McPhelemy, jr., Roger McPhelemy, in and to certain placer ground described as follows:

Beginning at a post in the east line of Thos. Starr's Ditch and Placer Claim, which bears north 14 degrees 17 minutes west 134.5 feet from cor. No. 49; thence north 62 degrees east 333.5 feet; thence north 68 degrees 30 minutes east 500 feet; thence north 75 degrees 45 minutes east 500 feet; thence south 69 degrees 51 minutes east 500 feet; thence south 70 degrees east 500 feet; thence north 39 degrees 30 minutes west 500 feet; thence north 70 degrees west 500 feet; thence north 69 degrees 51 minutes west 500 feet; thence south 75 degrees 45 minutes west 500 feet; thence south 68 degrees 30 minutes west 500 feet; thence south 62 degrees west 114.5 feet; thence south 14 degrees 17 minutes east 504.6 feet to place of beginning, in California Mining District, containing $18\frac{98}{100}$ acres to Thomas Starr, for the sum of one dollar, &c.

Date of acknowledgement, Aug. 29th, 1877.

Recorded August 30th, A. D. 1877, at 7 P. M:

208 *Thomas Starr to Certificate Placer Claim.*

{ Book 10, } { Page 122. } Know all men by these presents: That I, Thomas Starr, of the county of Lake and State of Colorado, and a citizen of the United States, claim by the right of purchase

and location 170 acres of placer mining ground situated in the county and State aforesaid, and in the California Mining District.

Now, therefore, for the purpose of better defining and locating and consolidating the several claims, I have this 30th day of August, A. D. 1877, relocated the following described placer claim, to wit:

Beginning at cor. No. 1, a post in mound of stone which bears from U. S. locating monument No. 1, established by J. S. Titcomb, a U. S. deputy mineral surveyor, north 89 degrees 45 minutes west, va. 15 degrees east, 418 feet; thence south 17 degrees 50 minutes east 1436.5 feet to cor. No. 2; thence north 63 degrees 30 minutes east 515 feet to cor. No. 3; thence north 68 degrees east 289.5 feet to cor. No. 4; thence north 84 degrees 30 minutes east 179 feet to cor. No. 5; thence south 89 degrees east 215 feet to cor. No. 6; thence south 82 degrees 15 minutes east 277.5 feet to cor. No. 7; thence south 77 degrees 42 minutes east 169.5 feet to cor. No. 8; thence south 63 degrees 30 minutes east 332 feet to cor. No. 9; thence south 62 degrees 50 minutes east 197 feet to cor. No. 10; thence
209 north 38 degrees 18 minutes east 620 feet to cor. No. 11; thence south 62 degrees 30 minutes east 17 feet to cor. No. 12; thence south 42 degrees 55 minutes east 950 feet to cor. No. 13; thence south 28 degrees 30 minutes east 150 feet to cor. No. 14; thence north 49 degrees 30 minutes east 600 feet to cor. No. 15; thence north 49 degrees 5 minutes west 1085 feet to cor. No. 16; thence north 26 degrees 24 minutes east 488.5 feet to cor. No. 17; thence north 64 degrees west 200 feet to cor. No. 18; thence north 26 degrees east 920 feet to cor. No. 19; thence north 75 degrees 18 minutes west 1027 feet to cor. No. 20; thence north 28 degrees 48 minutes west 576.2 feet to cor. No. 21; thence north 0 degrees 5 minutes east 607 feet to cor. No. 22; thence north 14 degrees 17 minutes west 134.5 feet to cor. No. 23; thence north 62 degrees east 333.5 feet to cor. No. 24; thence north 68 degrees 30 minutes east 500 feet to cor. No. 25; thence north 75 degrees 35 minutes east 500 feet to cor. No. 26; thence south 69 degrees 51′ east 500 feet to cor. No. 27; thence south 70 degrees east 500 feet to cor. No. 28; thence north 39 degrees 30 minutes west 500 feet to cor. No. 29; thence north 70 degrees west 500 feet to cor. No. 30; thence north 69 degrees 51 minutes west 500 feet to cor. No. 31; thence south 75 degrees 45 minutes 500 feet to cor. No. 32; thence south 68 degrees 30 minutes west 500 feet to cor. No. 33; thence south 62 degrees west 114.5 feet to cor. No. 34; thence north 14 degrees 17 minutes west 97.3 feet to cor. No. 35; thence north 31 degrees 54 minutes west 328.3 feet to cor. No. 36; thence north 14 degrees 14 minutes west 240 feet to cor. No. 37; thence north 2 degrees east 422 feet to cor. No. 38;
210 thence north 2 degrees 35 minutes east 559 feet to cor. No. 39; thence north 10 degrees 50 minutes east 559 feet to cor. No. 40; thence north 10 degrees 38 minutes east 841 feet to cor. No. 41; thence north 32 degrees 6 minutes east 483 feet to cor. No. 42; thence north 49 degrees 13 minutes east 155.9 feet to cor. No. 43; thence north 82 degrees 37 minutes east 141.8 feet to cor. No. 44;

thence north 54 degrees 59 minutes east 141 feet to cor. No. 45; thence north 86 degrees 40 minutes east 89.77 feet to cor. No. 46; thence south 70 degrees 8 minutes 249.5 feet to cor. No. 47; thence north 50 degrees east 166.5 feet to cor. No. 48; thence south 80 degrees 10 minutes east 180 feet to cor. No. 49; thence south 74 degrees 15 minutes east 97 feet to cor. No. 50; thence south 40 degrees 28 minutes east 126.5 feet to cor. No. 51; thence north 30 degrees 56 minutes east 50 feet to cor. No. 52; thence north 74 degrees 15 minutes west 97 feet to cor. No. 53; thence north 80 degrees 10 minutes west 180 feet to cor. No. 54; thence south 50 degrees east 166.5 feet to cor. No. 55; thence north 70 degrees 8 minutes west 249.5 feet to cor. No. 56; thence south 72 degrees 54 minutes west 28.5 feet to cor. No. 57; thence south 57 degrees west 126 feet to cor. No. 58; thence south 44 degrees west 69 feet to cor. No. 59; thence south 65 degrees 10 minutes west 74.5 feet to cor. No. 60; thence south 89 degrees 52 minutes west 80 feet to cor. No. 61; thence south 62 degrees 50 minutes west 69.5 feet to cor. No. 62; thence south 35 degrees 24 minutes west 54.5 feet to cor. No. 63; thence south 56 degrees 20 minutes west 104 feet to cor. No. 64; thence south 39 degrees west 192 feet to cor. No. 65; thence south 27 degrees 36 minutes west 292.5 feet to cor. No. 66;
211 thence south 20 degrees 40 minutes west 157.4 feet to cor. No. 67; thence south 10 degrees 22 minutes west 245 feet to cor. No. 68; thence south 7 degrees 15 minutes west 445.5 feet to cor. No. 69; thence south 15 degrees 50 minutes 256.5 feet to cor. No. 70; thence south 8 degrees 26 minutes west 303 feet to cor. No. 71; thence south 3 degrees 6 minutes west 375 feet to cor. No. 72; thence south 7 degrees 40 minutes east 70.5 feet to cor. No. 73; thence south 4 degrees 10 minutes west 297 feet to cor. No. 74; thence south 1 degree 10 minutes east 157 feet to cor. No. 75; thence south 15 degrees 20 minutes east 222.5 feet to cor. No. 76; thence south 30 degrees 10 minutes east 347.5 feet to cor. No. 77, thence south 13 degrees east 150 feet to cor. No. 78; thence south 13 degrees 10 minutes east 580 feet to cor. No. 79; thence south 1 degree 20 minutes east 600 feet to cor. No. 80; thence south 29 degrees 40 minutes east 536.5 feet to cor. No. 81; thence south 73 degrees 40 minutes west 1413 feet to cor. No. 82; thence south 16 degrees 20 minutes east 654.5 feet to cor. No. 83; thence south 88 degrees 5 minutes west 1428.5 feet to the place of beginning.

Dated this 30th day of August, A. D. 1877.

THOMAS STARR.

Recorded August 30th, A. D. 1877, at 7 P. M.

JOS. H. WELLS, *Recorder.*

212 *James McPhelemy, Jr., et al. to Certificate Placer Claim.*

{Book 10, Page 126.} Know all men by these presents: That we, the undersigned, do claim by purchase 58.03 acres of placer

mining ground, situated in California mining district, county and State aforesaid, and we hereby, on this tenth day of August, A. D. 1877, for the purpose of defining the location and extent of said placer claim, have relocated the following described premises:

Beginning at cor. No. 1, being the northwest corner of the Weston and Paul's claim, which bears from cor. No. 1 of the Oro mining and fluming, cor. No. 1 south 92 degrees 10 minutes west feet, which bears from U. S. locating monument No. 1 north 89 degrees 45 minutes west 418 feet; thence north 50 degrees 31 minutes east 500 feet to cor. No. 2; thence north 45 degrees east 500 feet to cor. No. 3; thence 57 degrees 23 minutes east 500 feet to cor No. 4; thence north 57 degrees 15 minutes east 500 feet to cor. No. 5; thence north 52 degrees east 500 feet to cor. No. 6; thence north 50 degrees east 500 feet to cor. No. 7; thence north 60 degrees east 500 feet to cor. No. 8; thence north 62 degrees 603.5 feet to west line T. Starr's claim 666.5 feet to east line of said claim 1000 feet to cor. No. 9; thence north 68 degrees 30 minutes east 500 feet to cor. No. 10; thence north 75 degrees 45 minutes east 500 feet to cor. No. 11; thence south 69 degrees 51 minutes east 500 feet to cor. No.
213 12; thence south 70 degrees east 500 feet to cor. No. 13; thence north 39 degrees 30 minutes west 500 feet to cor. No. 14; thence north 70 degrees west 500 feet to cor. No. 16; thence south 75 degrees 45 minutes west 500 feet to cor. No. 17; thence south 68 degrees 30 minutes west 500 feet to cor. No. 18; thence south 62 degrees west 114.5 feet west line of T. Starr's claim 1000 feet to cor. No. 19, south 60 degrees west 500 feet to cor. No. 20; thence south 50 degrees west 500 feet to cor. No. 21; thence south 52 degrees west 500 feet to cor. No. 22; thence south 57 degrees 15 minutes west 500 feet to cor. No. 23; thence south 57 degrees 23 minutes west 500 feet to cor. No. 24; thence south 45 degrees west 500 feet to cor. No. 25; thence south 50 degrees 30 minutes west 500 feet to cor. No. 26; thence south 39 degrees 80 minutes east 500 feet to the place of beginning.

Dated this 28th day of August, A. D. 1877.

JAMES McPHELEMY, JR.
ROGER McPHELEMY.
PETER STARR.

Recorded August 30th, A. D. 1877, at 7 P. M.

S. D. Breece et al. to Certificate Placer Claim.

{Book 10, Page 127.} Know all men by these presents: That we, the undersigned, claim by the right of relocation 10.44 acres of placer mining ground, and have this 21st day of August, A.
214 D. 1877, relocated the following described premises, situated in California mining district, county of Lake and State of Colorado, to wit:

Beginning at cor. No. 1, a post in mound of stones which bears

from U. S. locating monument No. 1, established by J. S. Titcomb, north 89 degrees 45 minutes west, va. 15 degrees east; thence north 88 degrees 5 minutes east 1428.5 feet to cor. No. 2; thence south 16 degrees 20 minutes east 142 feet to cor. No. 3; thence south 74 degrees 28 minutes west 1371.4 feet to cor. No. 4; thence north 17 degrees 50 minutes west 480 feet to the place of beginning. The above relocation is made to correct errors and to adjust to the lines of other parties.

S. D. BREECE.
AUG. R. MEYER.
G. L. HENDERSON.
W. H. BRADT.

Recorded August 30th A. D. 1877, at 7 P. M.

Thomas Starr to Certificate Placer Claim.

Know all men by these presents: That I, Thomas Starr, of the county of Lake and State of Colorado, and a citizen of the United States, claim by the right of purchase and location 158.25 acres of placer mining ground, situated in the county and State aforesaid, and in California mining district.

215

Now, therefore, for the purpose of better defining and locating and consolidating the several claims, I have this 12th day of December, A. D. 1877, relocated the following described placer claim, to wit:

Beginning at cor. No. 1, a granite rock which bears from U. S. locating monument No. 1, established by J. S. Titcomb, U. S. deputy mineral surveyor, north 89 degrees 45 minutes west 418 feet, (variation in all courses, 15 degrees east); thence south 17 degrees 50 minutes east 1437 feet to cor. No. 2, a granite rock; thence north 63 degrees 30 minutes east 515 feet to cor. No. 3, a granite rock; thence north 68 degrees east 289.5 feet to cor. No. 4, a granite rock; thence north 84 degrees 28 minutes east 179 feet to cor. No. 5, a granite rock; thence south 89 degrees east 215 feet to cor. No. 6, a granite rock; thence south 82 degrees 19 minutes east 277.5 feet to cor. No. 7, a granite rock; thence south 77 degrees 42 minutes east 169.5 feet to cor. No. 8, a granite rock; thence south 63 degrees 30 minutes east 332 feet to cor. No. 9, a granite rock; thence south 62 degrees 50 minutes east 197 feet to cor. No. 10, a granite rock; thence north 38 degrees 20 minutes east 620 feet to cor. No. 11, a granite rock; thence south 62 degrees 30 minutes east 17 feet to cor. No. 12, a granite rock; thence south 42 degrees 55 minutes east 950 feet to cor. No. 13, a porphry rock; thence south 28 degrees 30 minutes east 150 feet to cor. No. 14, a granite rock; thence north 49 degrees 30 minutes east 598 feet to cor. No. 15, a granite rock; thence north 49 degrees 5 minutes west 1088 feet to cor. No. 16, a sandstone; thence north 26 degrees 24 minutes east 486 feet to cor. No.

17, a granite rock; thence north 64 degrees west 200 feet to
216 cor. No. 18, a porphry rock; thence north 26 degrees east 915 feet to cor. No. 19, a granite rock, from which a blazed pine 12 inches diameter bears south 14 degrees 28 minutes east 32 feet, a blazed pine 16 inches in diameter bears north 57 degrees 25 minutes east 17.5 feet; thence north 75 degrees 18 minutes west 1027 feet to cor. No. 20, a granite rock; thence north 28 degrees 20 minutes west 370.4 feet to cor. No. 21, a granite rock; thence north 0 degrees 3 minutes east 607 feet to cor. No. 22, a granite rock; thence north 14 degrees 17 minutes west 136.94 feet to cor. No. 23, a granite rock; thence north 62 degrees east 333.5 feet to cor. No. 24, a granite rock; thence north 68 degrees 30 minutes east 500 feet to cor. No. 25, a granite rock; thence north 75 degrees 35 minutes east 500 feet to cor. No. 26, a granite rock, from which a pine 18 inches in diameter bears south 25 degrees east 19 feet, a pine 10 inches in diameter bears south 59 degrees 45 minutes west 15 feet ——————; thence south 69 degrees 51 minutes east 500 feet to cor. No. 27, a granite rock; thence south 70 degrees east 500 feet to cor. No. 28, a granite rock; thence north 39 degrees 30 minutes west 500 feet to cor. No. 29, a granite rock, from which a pine 12 inches in diameter bears north 82 degrees east 65 feet, a pine 16 inches in diameter bears north 46 degrees 50 minutes east 61 feet; thence north 70 degrees — minutes west 503 feet to cor. No. 30, a granite rock; thence north 69 degrees 51 minutes west 500 feet to cor. No. 31, a granite rock; thence south 75 degrees 35 minutes west 500 feet to cor. No. 32, a granite rock; thence south 68 degrees 30 minutes west 500 feet to car. No. 33, a granite rock; thence south 62 degrees west 114 feet to cor. No. 34, a granite rock; thence 14 ° 17′ west 89.33 feet to cor. No. 35, a granite rock, from which a mound of stone on Mt. Elbert bears south 42 degrees 58 minutes west, a high mountain peak (name unknown) bears south 4 degrees 51 minutes west ——; thence north 31° 50′ west 328.5 feet to cor. No. 36, a granite rock; thence N. 14° 14′ W. 240 $\frac{8}{10}$ feet to cor. No. 37, a granite rock;
217 thence north 2 degrees east 424 feet to cor. No. 38, a granite rock; thence north 2 degrees 35 minutes east 442 feet to cor. No. 39, a granite rock; thence north 10 degrees 50 minutes east 560.7 feet to cor. No. 40, a granite rock; thence north 10 degrees 37 minutes east 841 feet to cor. No. 41, a granite rock; thence north 32 degrees 7 minutes east 482.2 feet to cor. No. 42, a granite rock; thence north 49 degrees 13 minutes east 155.5 feet to cor. No. 43, a granite rock; thence north 78 degrees 42 minutes east 142 feet to cor. No. 44, a granite rock; thence north 55 degrees east 141 feet to cor. No. 45, a granite rock, from which a blazed pine 15 in. in dia. bears south 33 degrees west 53.5 feet, a blazed pine 16 in. in dia. bears south 38 degrees 46 minutes east 24 feet; thence north 59 degrees 42 minutes east 100 feet to cor. No. 46, a granite rock; thence south 70 degrees 8 minutes east 249.5 feet to cor. No. 47, a granite rock; thence north 50 degrees east 166.5 feet to cor. No. 48, a granite rock; thence south 80 degrees 10 minutes east 180 feet to cor. No. 49, a granite rock;

thence south 74 degrees 15 minutes east 97 feet to cor. No. 50, a granite rock; thence south 40 degrees 28 east 125 feet to cor. No. 51, a granite rock; thence north 30 degrees 56 minutes east 50 feet to cor. No. 52, a granite rock, from which a high mountain peak (name unknown) bears 53 degrees 51 minutes west, a high mountain peak (name unknown) bears north 15 degrees 8 minutes west; thence 43 degrees 32 minutes west 150 feet to cor. No. 53, a granite rock; thence north 74 degrees 15 minutes west 97 feet to cor. No. 54, a granite rock; thence north 80 degrees 10 minutes west 180 feet to cor. No. 55, a granite rock; thence south 50 degrees west 166.5 feet to cor. No. 56, a granite rock; thence north 70 degrees 8 minutes west 249.5 feet to cor. No. 57, a granite rock; thence south 72 degrees 54 minutes west 28.5 feet to cor. No. 58, a granite rock; thence south 57 degrees west 126 feet to cor. No. 59, a granite rock; thence south 44 degrees west 69
218 feet to cor. No. 60, a granite rock; thence south 65 degrees 10 minutes west 75 feet to cor. No. 61, a granite rock; thence south 89 degrees 52 minutes west 81 feet to cor. No. 62, a granite rock; thence south 62 degrees 50 minutes west 70 feet to cor. No. 63, a granite rock; thence south 35 degrees 24 minutes west 54.5 feet to cor. No. 64, a granite rock; thence south 56 degrees 20 minutes west 104 feet to cor. No. 65, a granite rock; thence south 39 degrees west 192 feet to cor. No. 66, a granite rock; thence south 27 degrees 36 minutes west 292.5 feet to cor. No. 67, a granite rock; thence south 20 degrees 40 minutes west 157.4 feet to cor. No. 68, a granite rock; thence south 10 degrees 22 minutes west 245 feet to cor. No. 69, a granite rock; thence 7 degrees 15 minutes west 445 feet to cor. No. 70, a granite rock; thence south 15 degrees 50 minutes west 256.5 feet to cor. No. 71, a granite rock; thence south 8 degrees 26 minutes west 303 feet to cor. No. 72, a granite rock; thence south 3 degrees 6 minutes west 375 feet to cor. No. 73, a granite rock; thence south 7 degrees 40 minutes east 70.5 feet to cor. No. 74, a granite rock; thence south 4 degrees 10 minutes west 297 feet to cor. No. 75, a granite rock; thence south 1 degree 10 minutes east 157 feet to cor. No. 76, a granite rock; thence south 15 degrees 20 minutes east 222.5 feet to cor. No. 77, a granite rock; thence south 30 degrees 10 minutes east 347.5 feet to cor. No. 78, a granite rock; thence south 13 degrees east 150 feet to cor. No. 79, a granite rock; thence south 13 degrees 10 minutes east 580 feet to cor. No. 80, a granite rock; thence south 1 degree 20 minutes east 600 feet to cor. No. 81, a granite rock; thence south 29 degrees 40 minutes east 330.5 feet to cor. No. 82, a granite rock; thence south 73 degrees 40 minutes west 1411 feet to cor. No. 83, a granite rock; thence south 16 degrees 20 minutes east 650 feet to cor. No. 84, a granite rock; thence south 88 degrees 5 minutes west 1428.5 feet to cor. No. 1, the place of beginning. The said placer claim lies north and west of the town of Old Oro, in the county of Lake and State of Colorado.

219 The former relocation of said claim was made the 30th day of August, 1877, the record of which is found in Book 10, page 122, of the records of said county and State. The present relo-

cation is made for the purpose of eliminating errors in former relocation.

THOMAS STARR.

Recorded Dec. 17th, A. D. 1877, at 5 P. M.

Quit-claim Deed dated June 20th, 1877.

{Book C, Page 339.} This deed transfers all the right, title, and interest of Aug. R. Meyer, W. H. Bradt, S. D. Breece, and Geo. L. Henderson in and to certain placer ground, to wit:

Beginning at cor. No. 1 of Meyer, Breece, Henderson & Co.'s Placer Claim; thence S. 65 degrees 57 minutes E., va. 15 degrees E., 400 feet to cor. No. 2; thence N. 40 degrees 20 minutes E. 305 feet to the upper side of the Starr ditch; thence along the upper side of ditch to a point where Starr's fence crosses the ditch; thence along fence to the west line of Meyer, Breece, Henderson & Co.'s claim; thence south along said line to the place of beginning, in California Mining District, county of Lake, State of Colorado, to Thomas Starr for the sum of fifty dollars.

Date of acknowledgement, June 20th, 1877. Recorded Dec. 24th, A. D. 1877, at 1 P. M.

220 *Quit-claim Deed dated May 21st, 1875.*

This deed transfers all the right, title, and interest of Lucius Bradshaw in and to certain mining property, to wit:

Claims No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 in Stray Horse Gulch, California Mining District, to Peter Starr for the sum of $500.00.

Date of acknowledgement, May 21st, A. D. 1875. Recorded Dec. 24th, A. D. 1877, at 1 P. M.

STATE OF COLORADO, } *ss:*
County of Lake, }

I, Jos. H. Wells, clerk and recorder in and for said county, in the State aforesaid, do hereby certify that the above and foregoing is to the best of my knowledge and belief a true and correct abstract of the property therein mentioned, and sets forth all that appears of record concerning the said placer claim as now remains of record now in my office.

Given under my hand and official seal this 2d day of March, A. D. 1878.

JOS. H. WELLS,
County Clerk and Recorder.

[SEAL.]

221 (Endorsed.): Abstract of Title; case of the Starr Placer Claim, sur. No. 255, dist. No. 3, Lake county, Colorado; applicant, Thomas Starr; filed in the United States Land Office at Fairplay,

Colorado, on the 18th day of March, 1878; Jno. J. Henry, register; Fred. C. Morse, Fairplay, Colorado, attorney for applicant.

To the introduction of which record the plaintiff, by its counsel, then and there objected, upon the ground that it can only show or tend to show the regularity or irregularity of the proceedings before the executive department in obtaining the patent, or the validity or invalidity of the possessory title or pre-emption right upon which the patent is founded, and that no evidence can be introduced to impeach the patent or attack it collaterally or in any way in this action, which objection was by the court overruled, and the said record of proceedings admitted in evidence; to which ruling and decision of the court, the plaintiff, by its counsel, then and there duly excepted.

Mr. PATTERSON. In addition to that, we ask that the record may show that we offer to introduce evidence for the purpose of
222 showing that early in the fall of 1877 the St. Louis Smelting and Refining Company commenced to sell and dispose of part of the land that was conveyed to them by Meyer, by Starr to Meyer, and Meyer to them, and that it was also conveyed to the St. Louis Smelting and Refining Company by Thomas Starr directly; that in the month of March, 1879, they caused some 20 acres of this 30-acre tract to be mapped and platted as an addition to the city of Leadville, and commenced to sell and dispose of lots to purchasers to that portion and part of the city of Leadville which their addition covered, and that the premises in controversy claimed by the defendants is within that portion of it that was mapped and platted, and that they have never used it. We also desire to offer to show that they have never used or attempted to use as grounds for their smelting works any portion of the ground that was platted, except what is upon the south side of Chestnut street, and that their works were built in one corner of the 30-acre tract; and we also desire to offer in evidence as part of our case this certified copy of the addition of the St. Louis Smelting & Refining Company to the city of Leadville, to show that the ground, or at least the lot in controversy, is
223 one of the lots that is upon that map and plat.

COURT: That is all your statement?

Mr. PATTERSON: Yes, sir; that is all my statement. I suppose the court will refuse to admit it, and we will take an exception.

COURT: Yes, sir.

Mr. PATTERSON: That closes our case.

And thereupon the court instructed the jury as follows:

225 The foregoing was all the evidence introduced on the trial of this cause, and thereupon the court charged and instructed the jury (among other things) the following, that is to say:

"By that act an individual claimant was not allowed to take more than twenty acres. He was limited to twenty acres as to the extent

of his claim, but nothing was said as to the amount that could be taken by an association of persons, and probably the provisions of that act upon that question are still retained."

To the giving of which portion of the said charge plaintiff, by its attorneys, then and there duly excepted.

And the court further charged the jury as follows, that is to say:

"Now, upon these several provisions to which I have referred, it is to be said that a patent for a claim since 1870 can in no case exceed 160 acres, that is for a single claim, and it cannot be so much except in the case of an association of persons. An association of persons may take 160 acres; an individual claimant in locations made since 1872 can have only 20 acres. I think I stated to you that in the act of 1870 individuals and associations were put upon the same footing; that either might take 160 acres, but when
226 the act of 1872 went into force an individual claimant was limited to 20 acres, and as nothing was said in this act as to the quantity to be taken by an association of persons, they might still take 160 acres; so that since 1872 the law has been that an individual claimant may have 20 acres and an association of persons can have 160 acres, and no more."

To the giving of which portion of the charge of the court the plaintiff, by its attorneys, then and there duly excepted.

The court also gave to the jury the following charge or instruction, viz.:

"So then when this patent came to be introduced for the purpose of showing whether it was upon a location made prior to 1870, we allowed the defendants to introduce the proceedings had in the land office, which show distinctly that the claim of Mr. Starr was based upon a number of locations, (12 or 15 of them,) some of 20 or 30 acres, perhaps, and some of a less number of acres, and these locations were made from time to time, some prior to July 9, 1870, the date of the first act upon the subject, and some of them since that time, up to 1877, and so it cannot be said that this patent was issued upon a location made prior to July 9th, 1870, but it is shown clearly that it was issued on the consolidation of several claims, some of them made prior to that time and some since that time."

227 To the giving of which said last portion of the charge of the court to the jury the plaintiff, by its counsel, then and there duly excepted.

And the court further gave to the jury the following charge and instruction, that is to say:

"Now, upon that, if Mr. Starr was the owner of these claims, if he had obtained them by purchase, and they were valid and regular

locations, he would under the act be required, if he desired to obtain a patent for them, to make the application for each one of them, to post the notice as required by the statute, and give the by publication, and file his plat and survey, and do all these things which are required in the several claims upon each one of them. If he had done so, and his right had been supported as to all of them, and the patent had been issued for all of these claims, and each of them described in the patent, there would have been no objection to the patent; but it was not competent for him to consolidate these claims and put them all in as one claim, and upon notice given as one claim and publication as one claim, and proceeding throughout as one claim embracing 164 acres. It is to be said that the officers of the land department had no authority in law to proceed in that way. Therefore the patent upon which the plaintiff relies is void, and their title fails."

228 To the giving of which last portion of the charge and instructions of the court to the jury the plaintiff, by its counsel, then and there duly excepted.

And forasmuch as the matters and things above set forth do not fully appear of record, the said plaintiff tenders this, its bill of exceptions, and prays that the same may be signed and sealed by the judge of this court pursuant to the statute in such cases made and provided. Which is done accordingly this day of December, being one of the judicial days of the term of court, A. D. 1879, at the city of Denver, in said district.

(Signed) MOSES HALLETT, *Dist. Judge.* [L. S.]

(Endorsed:) No. 232; Circuit Court U. S.; St. Louis Smelting and Refining Company *vs.* Thomas Kemp *et al.;* bill of exceptions; filed Jan. 5, 1880; (sg'd) Edward F. Bishop, clerk; G. G. Symes, C. I. Thomson, att'ys for plaintiff.

229 And afterwards and on, to wit, the 8th day of January, A. D. 1880, came again the said plaintiff, by its attorney, as aforesaid, and filed in said court and in said cause its bond in appeal, and sued out its writ of error to the Supreme Court of the United States.

And the said bond in appeal is in words and figures as follows, to wit:

231 *Appeal Bond, U. S. Circuit Court, Colorado.*

THE UNITED STATES OF AMERICA, }
District of Colorado. }

Know all men by these presents: That we, The St. Louis Smelting and Refining Company, as principal, and —— as sureties, are held and firmly bound unto Thomas Kemp and William Nuttall in the

full and just sum of two hundred and fifty ($250) dollars, to be paid to the said Thomas Kemp and William Nuttall, their executors or administrators, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this — day of January, in the year of our Lord one thousand eight hundred and eighty.

Whereas lately, at the October Term, A. D. 1879, of the Circuit Court of the United States for the District of Colorado, in a suit pending in said court between The St. Louis Smelting and Refining Company, plaintiff, and Thomas Kemp and William Nuttall, defendants, judgment was rendered against the said The St. Louis Smelting and Refining Company, and in favor of said Thomas Kemp and William Nuttall, and the said The St. Louis Smelting and Refining Company having obtained a writ of error of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Thomas Kemp and William Nuttall, citing and admonishing them to be and appear at a Supreme Court of the United States to be held at Washington on the eleventh day of October next:

Now, the condition of the above obligation is such, that if the said The St. Louis Smelting and Refining Company shall prosecute said writ to effect, and answer all costs if it fails to make good its plea, then the above obligation to be void, else to remain in full force and virtue.

(Signed)	THE ST. LOUIS SMELTING AND REFINING CO.	[SEAL.]
(Signed)	By G. G. SYMES, Att'y in fact.	[SEAL.]
(Signed)	W. J. JENKINS.	[SEAL.]
(Signed)	G. G. SYMES.	[SEAL.]
(Signed)	MOSES HALLETT, District Judge.	

Jan. 8, 1880.

232 (Endorsed:) Gen. No. 332; Circuit Court of the United States, District of Colorado; St. Louis Smelting and Refining Company, plaintiff in error, *v.* Thomas Kemp *et al.*; appeal bond; $250; filed in the Circuit Court, U. S., this 8 day of Jan'y, A. D. 1880; (signed) Edward F. Bishop, clerk.

And the said WRIT OF ERROR is attached hereto, to wit:

233 *Writ of Error to Circuit Court, U. S., District of Colorado.*

THE UNITED STATES OF AMERICA, *District of Colorado*, } *ss:*

The President of the United States to the Judges of the Circuit Court of the United States for the District of Colorado, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, between

The St. Louis Smelting and Refining Company and Thomas Kemp and William Nuttall, a manifest error hath happened, to the great damage of the said The St. Louis Smelting and Refining Company, as by its complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the eleventh day of October next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this eighth day of January, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the 104th year.

EDWARD F. BISHOP,
Clerk.

[SEAL.]

(Allowed by) MOSES HALLETT,
District Judge.

234 *Return.*

THE UNITED STATES OF AMERICA, *District of Colorado*, } *ss:*

In obedience to the command of the within writ, I herewith transmit to the honorable Supreme Court of the United States a duly certified transcript of the record and proceedings in the within entitled case, together with all things concerning the same.

Witness my hand and the seal of said Circuit Court, at Denver, in said district, this 30th day of January, A. D. 1880.

EDWARD F. BISHOP,
Clerk.

[SEAL.]

(Endorsed:) Gen. No. 332; Supreme Court of the United States; St. Louis Smelting & Refining Company, plaintiff in error, *v.* Thomas Kemp *et al.*; writ of error; to Circuit Court, U. S., District of Colorado; Thomson & Sayer and G. G. Symes, attorneys for plaintiff in error.

And thereupon the following CITATION was issued out of said court and in said cause, to wit:

235 *Citation, U. S. Circuit Court.*

THE UNITED STATES OF AMERICA, }
District of Colorado. }

The United States of America to Thomas Kemp and William Nuttall, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the eleventh day of October next, pursuant to a writ of error filed in the clerk's office of the Circuit Court of the United States for the District of Colorado, wherein The St. Louis Smelting and Refining Company is plaintiff in error and you defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Moses Hallett, Judge of the Circuit Court of the United States for the District of Colorado, this eighth day of January, in the year of our Lord one thousand eight hundred and eighty.

MOSES HALLETT,
District Judge.

236 *Proof of Service.*

THE UNITED STATES OF AMERICA, }
District of Colorado, } *ss:*

On this 9th day of January, A. D. 1880, personally appeared Chas. W. Reitler before me, the subscriber, a clerk of the Circuit Court of the United States for the District of Colorado, and makes oath that he delivered a true copy of the within citation to V. D. Markham, one of the attorneys for the defendants in errror, and left the same with him at his office in the city of Denver, Colorado.

CHAS. W. REITLER.

Sworn to and subscribed before me this 9th day of January, A. D. 1880.

EDWARD F. BISHOP,
[SEAL.] *Clerk.*

(Endorsed:) Circuit Court of the United States, District of Colorado; St. Louis Smelting & Refining Co., plaintiff in error, *v.* Thomas Kemp *et al.*, defendant in error; citation; filed in Cir't Court of the U. S. this 8 day of Jan'y, A. D. 1880; Edward F. Bishop, clerk; Thomson & Sayer & G. G. Symes, attorneys for plaintiff in error.

237 *Clerk's Certificate.*

UNITED STATES OF AMERICA, } ss:
District of Colorado, }

I, Edward F. Bishop, clerk of the Circuit Court of the United States for the District of Colorado, do hereby certify the above and foregoing to be a true, perfect, and complete transcript and copy of the record and proceedings heretofore filed and had and entered of record in said court, and in a certain cause lately in said court pending, wherein The St. Louis Smelting and Refining Company was plaintiff and Thomas Kemp *et al.* were defendants, as fully and completely as the same still remain filed and of record in my office.

In testimony to the above, I do hereunto sign my name and affix the seal of said court, at Denver, in said district, this 20th day of January, 1880.

EDWARD F. BISHOP,
Clerk.

[SEAL.]

Clerk's fees: Transcript, 560 fols. & cer., $56.35.

Appendix.

MINING STATUTE OF JULY 26, 1866.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States."

"SEC. 4. *And be it further enacted,* That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession of the plat aforesaid; and the Surveyor-general may, in extending the surveys, vary the same from a rectangular form, to suit the circumstances of the country and the local rules, laws, and customs of miners; *Provided,* that no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface, for the convenient working of the same, as fixed by local rules; *And, provided further,* that no person can make more than

one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons." [Repealed.]

14 S. L., 252.

MINING STATUTE OF JULY 9, 1870.

"SEC. 12. *And be it further enacted*, That claims usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent under this act, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; *Provided*, that where the lands have been previously surveyed by the United States, the entry, in its exterior limits, shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of two dollars and fifty cents per acre; *Provided, further*, that legal subdivisions of forty acres may be subdivided into ten-acre tracts; and that two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; *And, provided further*, that no location of a placer claim, hereafter made, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys: and nothing in this section contained shall defeat or impair any *bona fide* pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any *bona fide* settler to any purchaser."

16 S. L., 217.

MINING STATUTE OF MAY 10, 1872.

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States, and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States."

"SEC. 2. That mining claims upon veins or lodes of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed, as to length along the vein or lode, by the customs, regulations, and laws in force at the date of their location. A mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited, by any mining regulation, to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end lines of each claim shall be parallel to each other."

"SEC. 5. That the miners of each mining district may make rules and regulations, not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims, located by reference to some natural object or permanent monument, as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars worth of labor shall be performed, or improvements made during each year. On all claims located prior to the passage of this act, ten dollars worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein, until a patent shall have been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be opened to relocation, in the same manner as if location of the same had ever been made: *Provided*, that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give

such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if, at the expiration of ninety days after such notice in writing or by publication, such delinquent should fail or refuse to contribute his proportion to comply with thi act, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

"SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation, authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this act, may file in the proper land office an application for a patent under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States' Surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the grounds, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat, previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid; and shall file a copy of said notice in such land office, and shall thereupon be entitled to a patent for said land in the manner following: The Register of the land office, upon the filing of such application, plat field-notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as

published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing his application or at any time thereafter, within the sixty days of publication, shall file with the Register a certificate of the United States' Surveyor-general that five hundred dollars worth of labor has been expended, or improvements made upon the claim by himself or grantors; that the plat is correct with such further descriptions by such reference to natural objects or permanent monuments, as shall identify the claim, and furnish an accurate description *to be incorporated in the patent.* At the expiration of the sixty days of publication, the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the Register and the Receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists, and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries and extent of such adverse claim: and all proceedings, except the publication of notice, and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a Court of competent jurisdiction, or the adverse claim waived.

It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable dilligence to final judgments, and a failure to do so, shall be a waver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the Register of the land office, together with the certificate of the Surveyor-general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the Receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the Register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess.

If it shall appear, from the decision of the court, that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the Surveyor-general, wherupon the Register shall certify the proceedings and judgment-roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proofs of citizenship under this Act, or the Acts of July twenty-sixth, eighteen hundred and sixty-six, and July ninth, eighteen hundred and seventy, in

the case of an individual, may consist of his own affidavit thereof, and, in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of their charter, or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

SEC. 10. That the act entitled "An Act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivision, no further survey or plat shall be required, and all placer mining claims hereafter located shall conform as near as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands, *Provided*, that proceedings now pending may be prosecuted to their final determination, under existing laws, but the provisions of this act when not in conflict with existing laws, shall apply to such

cases. *And, provided also* that, where by the segregation of mineral land in any legal sub-division, a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

~~Gen'l Stats., Colo. pp. 633.~~ 17. S. L. 94.

MINING STATUTES OF CALIFORNIA.

"SEC. 16. No location certificate shall claim more than one location, whether the location be made by one or several locators. And if it purport to claim more than one location, it shall be absolutely void, except as to the first location therein described, and if they are described together, or so that it cannot be told which location is first described, the certificate shall be void as to all."

General Statutes of Colorado, pp. 631, 633.

OFFICE SUPREME COURT U. S.
FILED
FEB 28 1881
JAMES H. McKENNEY, Clerk

In the Supreme Court of the United States.

OCTOBER TERM, 1880.

The St. Louis Smelting and Refining Co.

PLAINTIFF IN ERROR,

vs.

Thomas Kemp and William Nuttall,

DEFENDANTS IN ERROR.

No. 736.

In Error to the Circuit Court of the United States for the District of Colorado.

BRIEF OF PLAINTIFFS IN ERROR.

WASHINGTON, D. C.
GIBSON BROTHERS, PRINTERS.
1880.

IN THE

Supreme Court of the United States.

October Term, 1880.

THE ST. LOUIS SMELTING AND REFINING COMPANY, PLAINTIFF IN ERROR,

vs.

THOMAS KEMP AND WILLIAM NUTTALL.

No. 736.

In Error to the Circuit Court of the United States for the District of Colorado.

Brief for the Plaintiff in Error.

STATEMENT.

The plaintiff in error brought ejectment against the defendants to recover possession of certain real estate, situated in the county of Lake, and State of Colorado, which is described in the complaint as follows:

"Lot No. 5, in block No. 1, as shown upon a map and "plat of town lots made by the plaintiffs, entitled the St. "Louis Smelting and Refining Company's Addition to the "City of Leadville, which map and plat is duly filed in "the office of the Clerk and Recorder of said county."

The action was brought in the District Court of the fourth judicial district of Colorado, sitting in and for the county of Lake, and upon petition of defendants it was removed to the Circuit Court of the United States for the district of Colorado.

Rec., p. 3.

The complaint alleges that the plaintiff is a corporation duly incorporated under the laws of the State of Missouri, with power to purchase, own, and hold real estate; that it is the owner in fee and entitled to the possession of the described premises, and that the defendants wrongfully withhold same from the plaintiff, to its damage in the sum of five thousand dollars.

Rec., p. 4.

The answer admits the incorporation of the plaintiff, but denies all the other averments of the complaint. As further matter of special defence, the answer alleges that the plaintiff was competent to acquire title to or to hold or possess only such real estate in Colorado as might be necessary for the transaction of its business as a smelting and refining company; that the lot in question was not requisite for such purpose; that the plaintiff neither acquired, holds, nor possesses the title thereto for such purpose, but on the contrary, aimed to acquire the said title for the purpose of trading, selling, and speculating in said real estate; and that, *therefore*, the plaintiff neither acquired nor holds any title thereto or interest therein.

Rec., p. 12.

The replication to this plea denies that the plaintiff is incompetent to buy, sell, hold, and deal in, for any purpose whatever, all kinds of lands, mining property, and real estate, and further alleges that when it purchased the gen-

eral tract, of which the controverted lot forms a small part, same was requisite to the transaction of its smelting and refining business; that the purchase was not made for speculation, but for the sole purpose of erecting smelting and reducing works thereon; that it executed such purpose by the erection of the Harrison Reduction Works, and that plaintiff has ever since carried on the business of reducing and smelting silver ores in the said works upon the said property.

Rec., p. 14.

On the trial of the case plaintiff offered in evidence a patent from the United States to Thomas Starr, dated March 29, 1879. Said patent recited that, pursuant to the provisions of Chapter six, Title thirty-two, of the Revised Statutes of the United States, there had been deposited in the General Land Office the plat and field-notes of the placer mining claim of Thomas Starr, accompanied by the certificate of the Register of the land office at Fairplay, Colorado, whereby it appeared that in pursuance of the said Revised Statutes the said Thomas Starr did, on the 6th day of March, 1879, enter and pay for said claim, being Fairplay Mineral Entry No. 182, for Mineral Lot No. 255, and containing one hundred and sixty-four acres and sixty-one hundredths of an acre, (164 61–100,) more or less. The boundaries of the tract were described in full according to said field-notes, and all the recitals and covenants were in the usual form of United States patents for placer mining premises.

Rec., pp. 17–24.

The defendants objected to the introduction of said patent, but the objection was overruled by the court, and the patent admitted in evidence and read to the jury.

Rec., p. 24.

Plaintiff then offered in evidence a deed from Thomas Starr to August R. Meyer, and acknowledged April 4, 1879, (Rec., p. 24;) a deed from August R. Meyer to the St. Louis Smelting and Refining Company, acknowledged April 19, 1879, (Rec., p. 26,) and a deed from Thomas Starr to the St. Louis Smelting and Refining Company, acknowledged August 27, 1877.

Rec., p. 27.

Plaintiff further put in evidence the certificate of the Register of the United States land office at Fairplay, Col., that Thomas Starr, on the 18th day of March, 1878, made application at that office to enter, pay for, and receive patent for the Starr Placer claim, and that "such proceedings "were thereafter had in this office in accordance with law."

Rec., p. 28.

Plaintiff then put in evidence certified copies from the office of the Secretary of State of Colorado of the articles of incorporation of the St. Louis Smelting and Refining Company, dated May 10, 1871, and of the statutes of the State of Missouri, under which said corporation was organized.

Rec., pp. 28–48.

Plaintiff then put in evidence a certified copy of the appointment by president and secretary of the St. Louis Smelting and Refining Company of an agent for Colorado, and establishing a place of business, upon whom and where process may be served.

Rec., pp. 48–50.

Plaintiff then offered to prove orally that the ground in dispute was a part of the land described in the aforesaid patent and deeds; but defendants admitted same, and such admission was entered of record.

Rec., p. 50.

Edwin Harrison, president of the St. Louis Smelting and Refining Company, was then produced as a witness by the plaintiff, to prove that the company purchased the tract embraced in aforesaid patents and deeds, in 1877, prior to the existence of any town of Leadville, for the sole purpose of using it for the Harrison Reduction Works; that at the time of such purchase and erection of the works the land was absolutely unoccupied; and that after using every means to prevent intrusion upon the premises, and after refusing to sell or rent any portion thereof, the rapid growth of the subsequent town of Leadville so covered parts of the tract with trespassers that the Smelting Company was forced to negotiate with such intruders for a recognition of title.

Rec., pp. 50–54.

The plaintiff here rested his case, and thereupon the defendants offered in evidence certified copy of the record of proceedings in the General Land Office, upon which Thomas Starr obtained his patent. (Rec., pp. 54–102.) Plaintiff objected to the introduction of this record upon the ground—

"That it can only show or tend to show the regularity "or irregularity of the proceedings before the Executive "Department in obtaining the patent, or the validity or in- "validity of the possessory title or pre-emption right upon "which the patent is founded, and that no evidence can be "introduced to impeach the patent or attack it collaterally "or in any way in this action."

The plaintiff's objection to this testimony the court overruled, to which ruling the plaintiff duly excepted.

Rec., p. 102.

Whereupon the court instructed the jury (among other things) as follows:

"By that act an individual claimant was not allowed "to take more than twenty acres. He was limited to "twenty acres as the extent of his claim, but nothing was "said as to the amount that could be taken by an associa- "tion of persons, and probably the provisions of that act "upon that question are still retained."

Rec., pp. 102–103.

To the giving of which portion of the said charge the plaintiff duly excepted.

The court further charged the jury as follows:

"Now upon these several provisions, to which I have "referred, it is to be said that a patent for a claim since "1870 can in no case exceed 160 acres; that is for a sin- "gle claim, and it cannot be so much except in the case "of an association of persons. An association of persons "may take 160 acres. An individual claimant, on loca- "tions made since 1872, can have only 20 acres. I think "I stated to you that in the act of 1870 individuals and "associations were put upon the same footing; that either "might take 160 acres, but when the act of 1872 went "into force an individual claimant was limited to 20 acres, "and as nothing was said in this act as to the quantity to "be taken by an association of persons they might still "take 160 acres. So that since 1872 the law has been "that an individual claimant may have 20 acres and an "association of persons can have 160 acres, and no more."

Rec., p. 103.

To the giving of which portion of the charge of the court the plaintiff duly excepted.

The court further charged the jury as follows:

"So that when this patent came to be introduced for the "purpose of showing whether it was upon a location made "prior to 1870 we allowed the defendants to introduce the "proceedings had in the Land Office, which show distinctly "that the claim of Mr. Starr was based upon a number of "locations, (12 or 15 of them,) some of 20 or 30 acres

" perhaps, and some of a less number of acres; and these " locations were made from time to time, some prior to " July 9, 1870, the date of the first act upon the subject, " and some of them since that time up to 1877, and so it " cannot be said that this patent was issued upon a loca- " tion made prior to July 9, 1870, but it is shown clearly " that it was issued on the consolidation of several claims, " some of them made prior to that time and some since " that time."

Rec., p. 103.

To the giving of which portion of the charge of the court plaintiff duly excepted.

The court further charged the jury as follows:

"Now upon that, if Mr. Starr was the owner of these " claims, if he had obtained them by purchase and they " were valid and regular locations, he would, under the " act, be required, if he desired to obtain a patent for them, " to make the application for each one of them, to post the " notice, as required by the statute, and give the publica- " tion and file his plat and survey, and do all these things " which are required in the several claims upon each one " of them. If he had done so, and his right had been " supported as to all of them, and the patent had been " issued for all of these claims, and each of them described " in the patent, there would have been no objection to the " patent; but it was not competent for him to consolidate " these claims and put them all in as one claim, and upon " notice given as one claim and publication as one claim, " and proceeding throughout as one claim embracing 164 " acres. It is to be said that the officers of the land de- " partment had no authority in law to proceed in that way. " Therefore the patent upon which the plaintiff relies is " void, and their title fails."

Rec., pp. 103–104.

To the giving of which portion of the charge of the court the plaintiff duly excepted.

Whereupon, and under the said instructions of the court,

the jury found for the defendants, and judgment was entered accordingly. The plaintiff in error has sued out this writ of error to obtain the reversal of that judgment.

ASSIGNMENT OF ERRORS.

1. The court below erred in overruling the objection made by counsel for the plaintiff to the introduction by defendants of the record of the proceedings in the Land Office upon which Thomas Starr obtained his patent, and in admitting the same to be read in evidence for the purpose of impeaching the patent.

2. The court erred in instructing the jury that no patent for a placer claim, since 1870, could, in any case, exceed one hundred and sixty acres, and could only be so much in the case of an association of persons.

3. The court erred in instructing the jury that the owner by purchase of a number of valid locations must prosecute separate patent proceedings upon each location in order to obtain a valid patent; that it is not lawful for him to prosecute a single application upon his consolidated purchase, nor lawful for the land officers to allow same, and that no valid patent could issue thereon.

4. The court erred in instructing the jury that the patent upon which plaintiff relied was void, and that plaintiff's title failed.

ARGUMENT FOR PLAINTIFF IN ERROR.

The plaintiff proves a former possession of the ground in controversy, and claims title through derivative conveyances, under a patent from the United States to one Thomas Starr. The defendants show no claim of right in themselves, whether legal or equitable, and have not attempted to establish a privity with the paramount source of title.

They rely exclusively on the alleged invalidity of the Starr patent. Upon the plaintiff's side, the court below admitted said patent as valid upon its face, and as making a *prima facie* case; but then permitted the defendants to go behind the patent, and to introduce evidence *aliunde* to prove irregularity in the preliminary measures which preceded its issue. Upon such evidence *aliunde* the patent was held to be void.

The discussion of the four assignments of error will fall naturally under two general propositions, viz:

1st. Was the evidence *dehors* the patent admissible?

2d. If admissible, did it invalidate the patent?

I.

The error of the court below in admitting evidence *dehors* the patent, to impeach its validity, is made manifest by numerous adjudications of this court.

This is not a case of conflicting patents to the same land, nor of prior equity in the defendants resisting a patent, nor of alleged fraud or imposition in the procurement of the patent, nor of a proceeding on the part of the Government to avoid the patent for any cause. Consideration, therefore, of such cases, and whether the remedy therein against a patent is in law or in equity, may be omitted.

It is an action at law, in ejectment, by a patentee against parties neither pleading nor proving claim of title in themselves, but relying exclusively upon the invalidity of the patent upon which recovery is sought. Such claim of invalidity must rest upon one of the two following propositions:

(1.) Irregularity in the proceedings which preceded the issuance of the patent and upon which it was founded.

(2.) Or upon some ground reaching beyond the actions

and conclusions of the Land Office, and extending to the existence of the subject upon which such tribunal could act.

(1.) The court below admitted the patent and let it go to the jury as valid upon its face, and all presumptions in favor of its regularity then logically attached. Numerous decisions have settled the doctrine that a patent, regular upon its face, raises the presumption that all previous requirements of the law have been complied with.

Polk's Lessee *v.* Wendell *et al.*, 9 Cranch, 87; 5 Wheat., 293.
Patterson *v.* Jenks, 2 Pet., 216.
Stringer *et al. v.* Young's Lessee *et al.*, 3 Pet., 320.
Boardman *v.* Reed *et al.*, 6 Pet., 328.
Bagnell *v.* Broderick, 13 Pet., 436.
Minter *v.* Crommelin, 18 How., 87.
Eureka C. M. Co. *v.* Richmond Mg. Co., 4 Saw., 319.

So, also, in the State courts:

Clark *v.* Hull, 19 Mich., 356.
Parkison *v.* Buchen, 1 Pirnney, (Wis.,) 174.
Schnee *v.* Schnee, 23 Wis., 377.
Moore *v.* Hunter, 6 Ills., 317.
Smith *v.* Pipe, 3 Colo., 187.
Summers *v.* Dickinson, 9 Cal., 554.
Doll *v.* Meader, 16 Cal., 296.
Durfee *v.* Plaisted, 38 Cal., 80.
Collins *v.* Bartlett, 44 Cal., 371.
Weaver *v.* Fairchild, 50 Cal., 360.
Allison *v.* Hunter, 9 Mo., 749.
Jenkins *v.* Gibson, 3 La. Ann., 203.
Masters *v.* Eustis, 3 Port., (Ala.) 368.

It has also been settled, as to patents regular upon their face, and excepting objections reaching beyond the actions

and conclusions of the Land Office and extending to the existence of the subject upon which such tribunal could act, that the action of the Land Office in issuing a patent for any of the public land, subject to sale by pre-emption or otherwise, is conclusive in all the courts and in all the proceedings, where, by the rules of law, the legal title must prevail.

Johnson *v.* Towsley, 13 Wall., 72.
French *v.* Fyan *et al.* 3 Otto, 169.

A contrary view would, in cases like that at bar, substitute a jury, or the court sitting as a jury, for the tribunal created by Congress to determine the question. A patent from the United States, regular upon its face, and having passed through all the formalities requisite to make it the highest evidence of title, would become a subject of uncertainty and chance. Its subjection to the test of the verdict of a jury, upon evidence *dehors* the instrument, might result in avoiding it in one suit, and in sustaining it in another. Such doctrine has never been countenanced by this court, but as was ruled in the cases *supra:*

"No inquiry can be permitted into the circumstances "under which it was obtained."

It is not contended that no mode of relief exists for avoiding the conclusive effect of a patent. The contention is, that such result cannot be reached (with the exceptions to be hereafter considered in the discussion of the second proposition) in a trial at law in ejectment; and that resort must be had by appropriate proceedings and with proper parties to a court of chancery. It has been repeatedly held that if the proceedings on which a patent was founded were irregular, the Government, but not one having no prior equity, can take advantage thereof. In such case the rem-

edy is by a direct proceeding to avoid the patent; but objections founded upon such considerations cannot be entertained in a court of law in an action of ejectment. Especially is this true in case of ejectment suit by a patentee against a mere intruder, neither pleading nor proving a prior equity, nor connecting himself in any form with the paramount source of title; for whilst in such case the rule of law is not changed, its reason becomes more apparent.

Hoofnagle *v.* Anderson, 7 Wheat., 212.
Patterson *v.* Winn, 11 Wheat., 380.
Field *v.* Seabury, 19 How., 323.
United States *v.* Stone, 2 Wall., 525.
Hughes *v.* United States, 11 How., 568; 4 Wall., 232.
Moore *v.* Robbins, 6 Otto, 530.
Patterson *v.* Tatum, 3 Saw., 175.
Clark *v.* Hull, 19 Mich., 356.
Hedley *v.* Leonard, 35 Mich., 71.
Arnold *v.* Grimes, 2 G. Greene, (Iowa,) 77.
The State *v.* S. C. & P. R.R. Co., 7 Neb., 357.
Moore *v.* Wilkinson, 13 Cal., 478.
Yount *v.* Howell, 14 Cal., 465.
Doll *v.* Meader, 16 Cal., 296.
Cruz *v.* Martinez, 53 Cal., 239.
Allison *v.* Hunter, 9 Mo., 749.

The contention of error in admitting evidence *dehors* the patent to prove irregularities in the prerequisites to its issuance has thus far proceeded upon the assumption that the instrument was regular upon its face. Such assumption is correct, because the court overruled the objections to the introduction of the patent, and permitted it to be put in evidence to the jury as *prima facie* valid. The subsequent rulings as to its invalidity were not predicated upon the face of the instrument, but upon evidence *aliunde* admitted for the purpose of impeaching its conceded *prima*

facie showing. Hence, arguing from the premise of the ruling of the court below in admitting the patent as regular upon its face, I have shown that all presumptions are in favor of the regularity of the prerequisites to its issuance; that the action of the Land Office in issuing a patent for any public land, subject to sale by pre-emption or otherwise, is conclusive in all the courts and in all the proceedings, where, by the rules of law, the legal title must prevail; and that, even if the proceedings on which a patent is founded were in fact irregular, and in the absence of a prior adverse equity, the Government alone can take advantage thereof by a direct proceeding in chancery to avoid the patent. It follows that the court below erred in failing to distinguish the status of the parties and the form of the proceeding, by whom and in which questions of irregularity and invalidity could be raised upon evidence *dehors* the patent. In a law action, parties having no known nor claimed relation to the property sought to be recovered were permitted upon proof *dehors* the instrument to assail a patent admitted in evidence as regular and valid upon its face. In so ruling, and upon the settled doctrine of this court, the court below clearly erred.

(2.) If, then, the ruling of the court in admitting evidence to impeach the patent can in any case be sustained, it must be upon some ground reaching back of the regularity of the prerequisites to its issuance, and extending to the *subject* upon which the Land Office could act.

It is submitted that all grounds of this character are grouped under some one of the five following heads, viz: (1) Where a patent is void upon its face; (2) or was issued without authority of law; (3) or was for an estate prohibited; (4) or where the grantor did not own the premises conveyed; (5) or where the instrument itself reserved the claim of the assailing party. These are the only recog-

nized exceptions to the general rule that patent titles cannot be avoided in ejectment suits.

The first, second, and fourth of such exceptions are illustrated in the cases of—

Patterson *v.* Winn, 11 Wheat., 380.
Polk's Lessee *v.* Wendell, 9 Cranch, 87.

The third exception is illustrated in the cases of—

Wilcox *v.* Jackson, 13 Pet., 498.
McArthur's Heirs *v.* Dunn's Heirs, 7 How., 267.

And the fifth exception is illustrated in the cases of—

Greenleaf's Lessee *v.* Birth, 6 Pet., 302.
Galloway *v.* Finley & Barr, 12 Pet., 264.
Foxcroft *v.* Mallett, 4 How., 353.
Maguire *v.* Tyler, 8 Wall., 653.

In present case, the land was admittedly mineral in character; was owned by the United States; was subject to sale and patent; and no reservations are contained in the patent which affect the case at bar. The case does not, then, fall within either the second, third, fourth, or fifth exceptions above stated.

If assailable at all in an ejectment suit, it must then be upon the ground that it was void upon its face. In such case we concede the settled rule that the patent may be assailed at any time and in all places, upon the ground that "it is itself record evidence of the matter which ren-" ders it a nullity."

Bludsoe's Devisees *v.* Well, 4 Bibb, 329.

But upon the theory of trial in the court below, and the instructions of the court to the jury, it is apparent that the patent was not held to be void *upon its face.* On the contrary, objections to its face value were overruled, and the

instrument was read to the jury as *prima facie* valid. Evidence *dehors* the instrument was admitted as matter of defence, and the finding of invalidity was predicated exclusively upon such evidence. It is clear that objections to the invalidity or illegality of the patent upon its face, if applicable at all, laid at the very threshold of plaintiff's proof. They necessarily involved the original question of the admissibility of the patent in evidence. Having ruled that question in favor of the patent, it is difficult to perceive upon what principle the court could subsequently hold it to be void upon its face, by permitting defendants to lay a basis for its attack upon proofs *dehors* the instrument.

It may be argued that this contention is technical, and relates rather to the proper order of proofs than to the face validity of the patent. But at any rate, the contention clearly leads to the conclusions that the evidence *aliunde* was improperly admitted, and that the vacation of the patent must rest, if at all, solely upon matter apparent upon its face.

Is such matter apparent upon its face?

Inspection of the patent will show that it contains all the usual recitals and covenants, and is in the ordinary form of Government conveyances of placer mining property. (Rec., p. 17.) The only objection which can possibly be taken to its face validity rests upon the area contained therein. The area is recited as being for $164\frac{61}{100}$ acres, more or less; and the broad ground assumed in such objection must be that no patent for placer lands could issue for that number of acres to an individual under the laws of the United States.

The laws relied upon are:

* * * "But no location of a placer claim, made after "the ninth day of July, eighteen hundred and seventy,

" shall exceed one hundred and sixty acres for any one " person or association of persons." * * *

Sec. 2330, R. S.

Sec. 12, Act July 9, 1870, (16 Stat., 217.)

* * * "And all placer mining claims located after " the tenth day of May, eighteen hundred and seventy-two, " shall conform," &c.; * * * "and no such location " shall include more than twenty acres for each individual " claimant." * * *

Sec. 2331, R. S.

Sec. 10, Act May 10, 1872, (17 Stat., 94.)

But to this objection there is an obvious answer. The limitation of the statute upon area is *in terms* restricted to the *original location* with the Mining Recorder; and it is further confined to locations *subsequent to specified dates*. It does not appear in the patent upon what locations it was predicated, nor the date thereof. Such recitals are never inserted in Government deeds. They form part of the antecedent matter resting within the judgment and decision of the Land Office, and fall within the legal presumption that the officers of the Executive Department did their duty. This patent may have been issued upon a location made prior to July 9, 1870, when the statutory restriction upon area had not been enacted. In such case the question of area would have been controlled absolutely by the local customs and regulations of the mining district in which the property was situate. There is nothing in the record tending to show that the area in question exceeded such local authority. All the implications are the other way.

A state of facts could then have existed in matter of area upon which this patent could have lawfully issued. It follows (1) that the ascertainment and determination of such facts was lodged exclusively with the Executive offi-

cers especially charged with the administration of the mining laws, and that the issuance of the patent was the evidence of their judgment; and (2) that if, under any possible circumstances, a patent for the area stated may be valid, the conclusive presumption of the law is that such circumstances existed.

If this second proposition is correct, it would seem to settle the case. That it is correct will appear from the following citations:

In Minter *v.* Crommelin, (18 How., 87,) a patent was claimed to be void because the lands included therein were alleged to have been reserved from sale at date of the original entry. It appeared that such lands had been reserved for the Creek Indians, but if abandoned by them were to become forfeited to the United States. The Secretary of the Treasury was empowered to decide the fact of abandonment, and if he so found, he could order the lands for ordinary sale. But by the act of 1817, the Register of the Land Office was prohibited from so selling, unless upon such special direction of said Secretary. The patent did not exhibit the fact of such direction. This court sustained the patent, holding that—

"The rule being that the patent is evidence that all pre-
" vious steps had been regularly taken to justify making
" of the patent; and one of the necessary previous steps
" here being an order from the Secretary to the Register to
" offer the land for sale, because the warrior had abandoned
" it, we are bound to presume that the order was given."

So, also, in the celebrated Richmond-Eureka case, (4 Saw., 319,) it was claimed that certain mineral patents were *prima facie* void, because the end lines of the surface locations patented were not parallel, as required by section 2 of the act of May 10, 1872.

But the court, Mr. Justice Field delivering the opinion, held that—

"It does not appear upon what locations the patents "were issued. They may have been, and probably were, "issued upon locations made under the act of 1866, where "such parallelism in the end lines of the surface locations "was not required. The presumption of the law is that "the officers of the executive department specially charged "with the supervision of applications for mining patents "and the issue of such patents, did their duty, and in an "action of ejectment mere surmises to the contrary will not "be listened to. *If, under any possible circumstances, a "patent for a location without such parallelism may be "valid, the law will presume that such circumstances ex-"isted.*"

Apply this doctrine to the case at bar as it stood upon the face of the patent and before evidence *aliunde* was admitted to impeach it. It is matter of public history, of which this court will take notice, that prior to the Congressional enactments for the sale of mineral lands, whether lode or placer, the area and conditions of possessory titles to mining claims were regulated by the varying laws and customs of innumerable mining districts. The Government had tacitly acquiesced in the growth of this system, and, as far back as the act of February 27, 1865, (section 910, Revised Statutes,) had formally sanctioned the enforcement of such rights of possession. The miners' rules in each local district fixed the area of such possessory claims for that district. When, then, Congress came to legislate upon the subject, it wisely refrained from disturbing, amongst other things, the area of locations under the former system of local customs, and only announced a rule of measurement for the future.

Applying, then, the doctrine of Minter *v.* Cromelin to the case at bar, it is submitted that the patent was evidence, that all previous steps had been regularly taken to justify

its issuance, and that one of such necessary steps was a location prior to 1870 for the area conveyed, and in accordance with local laws and customs then in force in the district wherein the property was situate. Such previous step could easily have existed, as the claim had been notoriously possessed and worked since 1860–'1, (Rec., pp. 58, 78;) and, according to the Eureka case, (*supra*,) if under any possible circumstances a patent for the area stated could be valid, "the law will presume that such circumstances "existed."

Surely such presumption cannot be rebutted in ejectment by defendants, having no other relation to the property than that of mere possession. The alleged defect does not concern such parties, and no one but the Government has the right to complain.

II.

Assuming, however, that the proofs *dehors* the patent were admissible, do they invalidate it?

The court below instructed the jury, as matter of fact, that the evidence introduced by the defendants to impeach the patent showed that the claim of Starr was based upon a number of different locations by other parties, made at varying dates, both prior and subsequent to the first Congressional act for the sale of placer lands, all of which locations had been consolidated by purchase in Starr, who had then obtained patent by a *single* application and subsequent proceedings for the consolidated claim.

Rec., p. 103.

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Rec., p. 103.

Thereupon, as matter of law, the court instructed the jury, that, whilst it was competent for Starr to have purchased these several claims from the original locators or their assigns and to have lawfully secured separate patents

thereon to himself by separate application, survey, publication, and other proofs upon *each* location, yet that it was not competent for him to apply for and obtain a single patent from the United States upon a consolidation of his several purchases and by one patent proceeding.

Rec., pp. 103–104.

It will be observed that no defects were decided to have existed in the several locations, whether in matter of area or otherwise. Each location seems, as an original proposition, to have been concededly valid. The said locations were all contiguous, and the proofs showed an aggregate average expenditure exceeding five hundred dollars to each location, viz., more than twenty thousand dollars upon the consolidated claim. (Rec., pp. 59, 66, 78.) The application of Starr for patent was sworn to March 15, 1878, and it showed that the applicant or his grantors had continuously worked and mined the premises applied for since 1861, had valuable improvements thereon, and that their possession had been open, notorious, and undisturbed for a period exceeding the statute of limitations for mining claims in the State of Colorado. (Rec., pp. 58, 59.) It seems to be conceded by the court below that each original location, whether in the possessory ownership of the locators or of their assignee, might by itself have been lawfully ripened into a Government patent. The entire proposition is, that one party having rightfully purchased several contiguous and valid locations, cannot lawfully obtain patent therefor by a single proceeding; but he must pursue as many single proceedings, with their attendant details and expenses, as there are original locations.

Is that proposition sound?

The laws of Congress provide for two distinct estates in the public mineral lands—

1st. Title by possession. (R. S., 2322, 2324.)

2d. Title in fee simple. (R. S., 2325.)

Possessory title is based upon a location on the ground and local record thereof, and it may be maintained indefinitely by certain annual expenditures prescribed by statute. A party having properly incepted such possessory right, and keeping up his annual expenditures, may rest upon same in perfect security against all except the Government, (secs. 910, 2322, R. S.,) and need never apply for a patent.

Upon the *creation* of this possessory title, viz., *the location*, the statute imposes a limitation of quantity. Placer locations prior to 1870 were controlled by the local laws of the mining district, because the acts of Congress are silent as to the extent of a location prior to that date. The acts of Congress of 1870 and of 1872 fixed a definite area to subsequent claims, but the limitation is in express terms upon the *location:*

"*And provided further*, That no *location* of a placer "claim hereafter made shall exceed one hundred and sixty "acres for any one person or association of persons." * *

Sec. 12, act of July 9, 1870, (16 Stat., 217.)
Sec. 2330, R. S.

"And all placer mining claims hereafter *located* shall "conform, &c., * * * and no such *location* shall in- "clude more than twenty acres for each individual claim- "ant." * * *

Sec. 10, act of May 10, 1872, (17 Stat., 94.)
Sec. 2331, R. S.

This possessory title being once created, the law imposes no restriction upon its sale or transfer. No limitation is fixed upon the number of such locations that a person or association of persons may acquire by purchase. The limitation is upon the original location—the creation of the

estate—and it does not apply to the acquisition or transfer of such estates once properly created. The statute in terms recognizes the right of assignment. Sec. 2322, R. S., affirms the exclusive right of possession in locators, " their " heirs and assigns," and sec. 2324, in prescribing certain regulations for the maintainance of possession to locations, uses the terms, " the original locators, their heirs, assigns, " or legal representatives." Said sections of the Revised Statutes deal exclusively with the possessory title.

Section 2332 prescribes what evidence of possession shall be sufficient in certain cases of placer claims, and speaks of " such person or association, they and their grantors."

Even if the power of sale was not expressly recognized by the law, yet the possessory right is valuable, and in the absence of prohibitory legislation by Congress it would be assignable.

Thredgill *v.* Pintard, (12 How., 24.)
Myers *v.* Croft, (13 Wall., 291.)

Any number of locations, originally made conformably to law, may then be consolidated by purchase in the ownership of one party, and by the prescribed acts of annual expenditure such purchaser could maintain his possessory estate indefinitely.

But the statute further provides a mode by which an owner of the possessory right, holding a limited area by his location, or an unlimited area by purchase from other locators, can ripen his possessory title into a fee-simple, and thereby escape further liability to the conditions of annual expenditure. This is by paying the Government its price for the land, after certain formalities of application and notice, and by receiving a patent therefor.

Sec. 2325, R. S.

It is upon this right of entry and patent that the court

below imposes the limitation, that it must be pursued by as many distinct proceedings as there are original locations constituting the consolidated purchase of the applicant. In other words, the claimant may enjoy indefinitely the possessory title to his consolidated purchases, perfect against all the world, except the Government; but if he wishes to pay the Government therefor and receive a patent he must segregate his claim into its original elements of location, and pursue a series of independent proceedings upon each element to attain but one result, viz., the fee to the whole.

It will be apparent to this court that this doctrine would largely defeat the administration of the mineral laws, so far as concerns the purchase of the fee from the Government. The large mining operations of the country are necessarily conducted by aggregated capital, through incorporated companies, and upon a purchase of a number of individual locations. To burden their purchase of the fee with a multiplicity of detailed and separate proceedings, and with the attendant cost and friction of each, would generally render the proceeding impracticable. Exceptional cases of unusual values might justify such great cost and detailed litigation; but the great majority of mine-owners would be forced to rest upon their possessory titles.

To sustain such a ruling, clear support thereof should be derivable from the statutes, or from plain requirements of administrative policy.

Such support is not found in the statutes. The law in terms does not impose such requirement. On the contrary, in prescribing the proceedings for obtaining patents, the statute (2325, R. S.) provides that "any person, associa-
"tion, or corporation * * * may file in the proper
"Land Office an application, * * * with a plat and
"field-notes *of the claim or claims in common*, * * *

"showing accurately the boundary of *the claim or claims*, etc.;" thus apparently providing that in the initial step of the patent proceeding, viz., the survey, two or more claims owned by the same applicant may be embraced in the same survey and application, as if but one.

The survey thus being provided for, the statute thereafter treats the tract embraced in such survey as one claim, and requires that the applicant "shall post a copy of such "plat * * * in a conspicuous place *on the land em-*"*braced in such plat.*"

Not a separate copy of the plat on each original location embraced in the survey, but one copy somewhere within the limits of the survey embracing the original "claim or claims."

It is further provided that after such survey and during the period of publication of notice to third parties the claimant shall file with the Register a certificate "of the "United States Surveyor-General that five hundred dol-"lars worth of labor has been expended or improvements "made upon the claim by himself or grantors," &c.

Now, construing the whole of this section of the law together, is it not the reasonable interpretation that if the applicant is the owner of more than one location they may be surveyed as one tract or claim; that the application for patent may embrace as many locations as are included in the survey, and that there is to be but one survey, one plat, one publication, and one patent for the consolidated claims? Whether the land embraced in the plat includes one or more original locations is immaterial, as after the application all the land is treated as one *claim*.

This construction finds further support from that part of section 2324, R. S., which, in prescribing the annual expenditures necessary to maintain the possessory title, provides that, "where such claims are held in common, such "expenditure may be made upon any one claim."

It is true that sec. 2324 is not applicable to proceedings for patent, and relates only to the possessory claim; but it indicates the policy of the law as allowing claims to be consolidated, and expenditures upon one of such consolidated claims to be sufficient to maintain the right to all.

Sec. 2325, R. S., deals with lode claims, but is equally applicable to placers, because sec. 2329, R. S., provides that—

"Claims usually called placers shall be subject to entry "and patent under like circumstances and conditions, and "upon similar proceedings as are provided for vein or lode "claims."

The principle involved has heretofore been adjudicated by this court.

In Polk's Lessee *v.* Wendell, (9 Cranch, 87,) recovery was sought upon a patent for some twenty-five thousand acres, issued from the State of North Carolina. It was objected that the patent was void, because in excess of the quantity authorized by the State law to be included in any grant. But the court held:

"This act limits the amount for which an entry might "be made. But the same person is not, in this act, for-"bidden to make different entries; and entries were trans-"ferable. No prohibition appears in the act which should "prevent the assignee of several entries, or the person who "has made several entries, from uniting them in one sur-"vey and patent. The court does not perceive, in reason "or in the directions of the law respecting surveys, any-"thing which should restrain a surveyor from including "several entries in the same survey. The form of surveys "which is prescribed by law, if that rule should be con-"sidered as applicable to surveys in several entries united, "may be observed, and in this case is observed, notwith-"standing the union of different entries."

This ruling is exactly in point, because, as was held in English *v.* Johnson, (17 Cal., 115)—

"The taking up of mineral land in pursuance of the
" mining regulations of the vicinage gives possessory title
" to the claims, just as an entry in the land office, or the
" following of the prescribed rules given by statute, gives
" a possessory title to public or agricultural land."

Again, in the same case, (9 Cranch, 87,) it was objected that under the State law which allowed one entire survey by two or more persons entering jointly, or where, entering separately, they agreed to survey jointly, the provision could not be extended to the case of distinct entries belonging to the same person, upon which the court held—

" For this distinction it is impossible to conceive a rea-
" son. No motive can be imagined for allowing two or
" more persons to unite their entries in one survey which
" does not apply with at least as much force for allowing
" a single person to unite his entries adjoining each other
" in one survey. It appears to the court that the case
" comes completely within the spirit and is not opposed by
" the letter of the law. The case provided for is, 'where
" 'two or more persons agree to have their entries sur-
" 'veyed jointly,' &c. Now this agreement does not pre-
" vent the subsequent assignment of the entries to one of
" the parties, and the assignment is itself the agreement of
" the assignor that the assignee may survey the entries,
" jointly or separately, at his election. The court is of
" opinion that, under a sound construction of this law, en-
" tries which might be joined in one survey, if remaining
" the property of two or more persons, may be so joined
" though they become the property of a single person."

This citation is equally apt, as sec. 2330, R. S., authorizes joint entries of placer lands by " two or more persons " having contiguous claims of any size," and as the agreement between Starr and Meyer was in terms made to obtain the benefit of that provision of the statute.

Rec., p. 90.

The case of Patterson *v.* Winn (11 Wheat., 380) is also

in point. The court therein holds that under a Georgia statute the limitation of quantity is applicable "to the warrant or incipient step towards acquiring the title and not "to the consummation of it by grant."

No requirement of administrative policy supports the ruling of the court below. Ever since the enactment of the mineral laws by Congress the Executive Department has administered the law upon the opposite theory, and the most valuable placer mining properties throughout the country are held under patents issued upon consolidated purchases of several locations. As far back as January 22, 1873, the General Land Office instructed the Register and Receiver at Le Grand, Oregon, that—

"If eight *bona fide* locators, each having located twenty "acres, in accordance with the Congressional laws and "with the local rules and regulations, should convey all "their right, title, and interest in said locations to one per-"son, such person might apply for a patent for the whole "one hundred and sixty acres thus located."
Copp's Mining Decisions, p. 157.

In July, 1873, the land officers at Fairplay, Colorado, (in which land district the entry of Thomas Starr was made,) were instructed that—

"Parties holding the possessory right in accordance "with the local laws may make a single entry of three "hundred and twenty-seven acres of placer ground, upon "compliance with the mining act of May 10, 1872."
Copp's Mining Decisions, p. 211.

And that this administrative practice has been continuous will appear from the General Land Office decision of September 20, 1879, wherein it was held—

"That the area which may be applied for as a placer "claim is unlimited, provided the separate locations con-

" stituting it were of legal quantity, properly made, and all " contiguous, making one tract, and the title is in applicant " for patent."

Copp's Land-Owner, vol. 7, No. 1, p. 4.

In the Starr patent, all the conditions mentioned were fully complied with, as is shown by the record; and in addition thereto it is shown that the expenditures aggregate twenty thousand dollars, or more than five hundred dollars to each location.

Record, pp. 59, 66, 78.

Furthermore, the application of Thomas Starr for a patent was primarily based upon the provisions of section 2332, R. S. (Record, pp. 58, 59, 68, 70.) That section prescribes as to cases falling within the local statute of limitations, a rule of evidence, or character of proof, which should be treated as " sufficient to establish a right to a " patent thereto under this chapter in the absence of any " adverse claim."

The importance of the questions before the court reaches beyond the case at bar. Affirmance of the judgment below will invalidate many other patents and unsettle long-established titles. All titles to lots in the city of Leadville are derived either from the Starr patent or from similar patents to other parties. Most of the placer patents issued by the United States for the past twelve years were based upon a consolidation of purchased locations. Very many of the patents issued upon lode claims, notably those to incorporated companies, have issued upon a similar construction of the statute. Whilst the inconveniences or hardships of a statute furnish no argument against its sound construction by this court, such considerations may be properly entertained in a case of doubtful construction.

Respectfully submitted.

A. T. BRITTON,
Counsel for Plaintiff in Error.